

Contract for the sale and purchase of land 2019 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	David Haggarty First National 454 High Street, Maitland, NSW 2320	Phone: 02 4933 5544 Fax: 02 4933 1706
co-agent		
vendor	Moondance Nominees Pty Ltd ACN 620 873 396 29 Moondance Court, Bonogin, QLD 4213	
vendor's solicitor	BAKER LOVE LAWYERS 30 Dan Rees Street, WALLSEND NSW 2287 DX 21454 WALLSEND	Phone: (02) 4944 3322 Fax: (02) 4951 2146 Ref: LN:JP:59383
date for completion land (address, plan details and title reference)	42nd day after the contract date 218 Settlers Bvd, Chisholm, New South Wales 2322 Registered Plan: Lot 3328 Plan DP 1260060 Folio Identifier 3328/1260060	(clause 15)
improvements	<input type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input checked="" type="checkbox"/> other: Vacant Land	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.

inclusions	<input type="checkbox"/> blinds <input type="checkbox"/> dishwasher <input type="checkbox"/> light fittings <input type="checkbox"/> stove <input type="checkbox"/> built-in wardrobes <input type="checkbox"/> fixed floor coverings <input type="checkbox"/> range hood <input type="checkbox"/> pool equipment <input type="checkbox"/> clothes line <input type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input type="checkbox"/> TV antenna <input type="checkbox"/> curtains <input type="checkbox"/> other:
exclusions	
purchaser	
purchaser's solicitor	Phone: Fax: E:
price	\$
deposit	\$
balance	\$
contract date	(10% of the price, unless otherwise stated)
	(if not stated, the date this contract was made)

buyer's agent

_____	_____	_____
vendor	GST AMOUNT (optional) The price includes GST of: \$	witness
_____	_____	_____
purchaser	<input type="checkbox"/> JOINT TENANTS <input type="checkbox"/> tenants in common <input type="checkbox"/> in unequal shares	witness

Choices

Vendor agrees to accept a *deposit-bond* (clause 3) NO yesNominated *Electronic Lodgment Network (ELN)* (clause 30):

PEXA

Electronic transaction (clause 30) no YES(if no, vendor must provide further details, such as the proposed applicable waiver, in the space below, or serve *within* 14 days of the contract date):

Tax information (the parties promise this is correct as far as each party is aware)

Land tax is adjustable

 NO yes

GST: Taxable supply

 NO yes in full yes to an extent

Margin scheme will be used in making the taxable supply

 NO yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

- not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
- by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
- GST-free because the sale is the supply of a going concern under section 38-325
- GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
- input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

Purchaser must make a *GSTRW payment*
(GST residential withholding payment) NO yes (if yes, vendor must provide further details)If the further details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice *within* 14 days of the contract date.***GSTRW payment (GST residential withholding payment) – further details***

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the supplier is a partnership, a trust, part of a GST group or a participant in a GST joint venture.

Supplier's name:

Supplier's ABN:

Supplier's GST branch address (if applicable):

Supplier's business address:

Supplier's email address:

Supplier's phone number:

Supplier's proportion of *GSTRW payment*:

If more than one supplier, provide the above details for each supplier.

Amount purchaser must pay – price multiplied by the *GSTRW rate* (residential withholding rate):Amount must be paid: AT COMPLETION at another time (specify):Is any of the consideration not expressed as an amount in money? NO yes

If "yes", the GST inclusive market value of the non-monetary consideration: \$

Other details (including those required by regulation or the ATO forms):

List of Documents

General	Strata or community title (clause 23 of the contract)
<input checked="" type="checkbox"/> 1 property certificate for the land <input checked="" type="checkbox"/> 2 plan of the land <input type="checkbox"/> 3 unregistered plan of the land <input type="checkbox"/> 4 plan of land to be subdivided <input type="checkbox"/> 5 document that is to be lodged with a relevant plan <input type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979 <input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5) <input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram) <input type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram) <input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract <input type="checkbox"/> 11 <i>planning agreement</i> <input type="checkbox"/> 12 section 88G certificate (positive covenant) <input type="checkbox"/> 13 survey report <input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i> <input type="checkbox"/> 15 lease (with every relevant memorandum or variation) <input type="checkbox"/> 16 other document relevant to tenancies <input type="checkbox"/> 17 licence benefiting the land <input type="checkbox"/> 18 old system document <input type="checkbox"/> 19 Crown purchase statement of account <input type="checkbox"/> 20 building management statement <input checked="" type="checkbox"/> 21 form of requisitions <input type="checkbox"/> 22 <i>clearance certificate</i> <input type="checkbox"/> 23 land tax certificate	<input type="checkbox"/> 32 property certificate for strata common property <input type="checkbox"/> 33 plan creating strata common property <input type="checkbox"/> 34 strata by-laws <input type="checkbox"/> 35 strata development contract or statement <input type="checkbox"/> 36 strata management statement <input type="checkbox"/> 37 strata renewal proposal <input type="checkbox"/> 38 strata renewal plan <input type="checkbox"/> 39 leasehold strata - lease of lot and common property <input type="checkbox"/> 40 property certificate for neighbourhood property <input type="checkbox"/> 41 plan creating neighbourhood property <input type="checkbox"/> 42 neighbourhood development contract <input type="checkbox"/> 43 neighbourhood management statement <input type="checkbox"/> 44 property certificate for precinct property <input type="checkbox"/> 45 plan creating precinct property <input type="checkbox"/> 46 precinct development contract <input type="checkbox"/> 47 precinct management statement <input type="checkbox"/> 48 property certificate for community property <input type="checkbox"/> 49 plan creating community property <input type="checkbox"/> 50 community development contract <input type="checkbox"/> 51 community management statement <input type="checkbox"/> 52 document disclosing a change of by-laws <input type="checkbox"/> 53 document disclosing a change in a development or management contract or statement <input type="checkbox"/> 54 document disclosing a change in boundaries <input type="checkbox"/> 55 information certificate under Strata Schemes Management Act 2015 <input type="checkbox"/> 56 information certificate under Community Land Management Act 1989 <input type="checkbox"/> 57 disclosure statement - off the plan contract <input type="checkbox"/> 58 other document relevant to off the plan contract Other <input type="checkbox"/> 59
Home Building Act 1989 <input type="checkbox"/> 24 insurance certificate <input type="checkbox"/> 25 brochure or warning <input type="checkbox"/> 26 evidence of alternative indemnity cover Swimming Pools Act 1992 <input type="checkbox"/> 27 certificate of compliance <input type="checkbox"/> 28 evidence of registration <input type="checkbox"/> 29 relevant occupation certificate <input type="checkbox"/> 30 certificate of non-compliance <input type="checkbox"/> 31 detailed reasons of non-compliance	

HOLDER OF STRATA OR COMMUNITY TITLE RECORDS – Name, address, email address and telephone number

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

WARNING—SMOKE ALARMS

The owners of certain types of buildings and strata lots must have smoke alarms (or in certain cases heat alarms) installed in the building or lot in accordance with regulations under the *Environmental Planning and Assessment Act 1979*. It is an offence not to comply. It is also an offence to remove or interfere with a smoke alarm or heat alarm. Penalties apply.

WARNING—LOOSE-FILL ASBESTOS INSULATION

Before purchasing land that includes any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) built before 1985, a purchaser is strongly advised to consider the possibility that the premises may contain loose-fill asbestos insulation (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*). In particular, a purchaser should:

- (a) search the Register required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*, and
- (b) ask the relevant local council whether it holds any records showing that the residential premises contain loose-fill asbestos insulation.

For further information about loose-fill asbestos insulation (including areas in which residential premises have been identified as containing loose-fill asbestos insulation), contact NSW Fair Trading.

COOLING OFF PERIOD (PURCHASER'S RIGHTS)

1. This is the statement required by section 66X of the *Conveyancing Act 1919* and applies to a contract for the sale of residential property.
2. **EXCEPT** in the circumstances listed in paragraph 3, the purchaser may rescind the contract at any time before 5 pm on—
 - (a) the tenth business day after the day on which the contract was made—in the case of an off the plan contract, or
 - (b) the fifth business day after the day on which the contract was made—in any other case.
3. There is **NO COOLING OFF PERIOD**:
 - (a) if, at or before the time the contract is made, the purchaser gives to the vendor (or the vendor's solicitor or agent) a certificate that complies with section 66W of the Act, or
 - (b) if the property is sold by public auction, or
 - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in, or
 - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under section 66ZG of the Act.
4. A purchaser exercising the right to cool off by rescinding the contract will forfeit to the vendor 0.25% of the purchase price of the property. The vendor is entitled to recover the amount forfeited from any amount paid by the purchaser as a deposit under the contract and the purchaser is entitled to a refund of any balance.

DISPUTES

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal, the Law Society Conveyancing Dispute Resolution Scheme or mediation (for example mediation under the Law Society Mediation Program).

AUCTIONS

Regulations made under the Property, Stock and Business Agents Act 2002 prescribe a number of conditions applying to sales by auction.

WARNINGS

1. Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving:

APA Group Australian Taxation Office Council County Council Department of Planning, Industry and Environment Department of Primary Industries Electricity and gas Land & Housing Corporation Local Land Services	NSW Department of Education NSW Fair Trading Owner of adjoining land Privacy Public Works Advisory Subsidence Advisory NSW Telecommunications Transport for NSW Water, sewerage or drainage authority
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If you think that any of these matters affects the property, tell your solicitor.
2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. The purchaser will usually have to pay transfer duty (and sometimes surcharge purchaser duty) on this contract. If duty is not paid on time, a purchaser may incur penalties.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor. More information is available from the ATO.

The vendor sells and the purchaser buys the *property* for the price under these provisions instead of Schedule 3 Conveyancing Act 1919, subject to any *legislation* that cannot be excluded.

1 Definitions (a term in italics is a defined term)

In this contract, these terms (in any form) mean –

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>deposit-bond</i>	a deposit bond or guarantee from an issuer, with an expiry date and for an amount each approved by the vendor;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>document of title</i>	document relevant to the title or the passing of title;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i>);
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11 th if not);
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>normally</i>	subject to any other provision of this contract;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements, all fixtures and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> • issued by a <i>bank</i> and drawn on itself; or • if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served by the party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018).

2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by giving cash (up to \$2,000) or by unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder* or by payment by electronic funds transfer to the *depositholder*.
- 2.5 If any of the deposit is not paid on time or a *cheque* for any of the deposit is not honoured on presentation, the vendor can *terminate*. This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a bond or guarantee for the deposit, clauses 2.1 to 2.5 do not apply.

- 2.7 If the vendor accepts a bond or guarantee for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.
- 3 Deposit-bond**
- 3.1 This clause applies only if this contract says the vendor has agreed to accept a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the original *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
- 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
- 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.
- 3.7 If the purchaser *serves* a replacement *deposit-bond*, the vendor must *serve* the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.7.
- 3.9 The vendor must give the purchaser the *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser *serves* prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser the *deposit-bond*; or
- 3.11.2 if the vendor *serves* prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward the *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Transfer**
- 4.1 *Normally*, the purchaser must *serve* at least 14 days before the date for completion –
- 4.1.1 the form of transfer; and
- 4.1.2 particulars required to register any mortgage or other dealing to be lodged with the transfer by the purchaser or the purchaser's mortgagee.
- 4.2 If any information needed for the form of transfer is not disclosed in this contract, the vendor must *serve* it.
- 4.3 If the purchaser *serves* a form of transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for this form of transfer.
- 4.4 The vendor can require the purchaser to include a form of covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land benefited.
- 5 Requisitions**
- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.
- 6 Error or misdescription**
- 6.1 *Normally*, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

7 Claims by purchaser

Normally, the purchaser can make a claim (including a claim under clause 6) before completion only by *servicing* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –

- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
- 7.1.2 the vendor *serves* notice of intention to *rescind*; and
- 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
- 7.2.2 the amount held is to be invested in accordance with clause 2.9;
- 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
- 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
- 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and
- 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

8 Vendor's rights and obligations

- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition within* 14 days after that *service*.
- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *servicing* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.

9 Purchaser's default

If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *servicing* a notice. After the *termination* the vendor can –

- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
- 9.2.1 for 12 months after the *termination*; or
- 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
- 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
 - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
- 9.3.2 to recover damages for breach of contract.

10 Restrictions on rights of purchaser

- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;

- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant – to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.
- 13 Goods and services tax (GST)**
- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
- 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
- 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
- 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
- 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
- if *within* 3 months of completion the purchaser *serves* a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not *serve* that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
- 13.4.4 if the vendor, despite clause 13.4.1, *serves* a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
- 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
- a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –

- 13.8.1 this sale is not a taxable supply in full; or
- 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
- 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the purchaser must make a *GSTRW payment* the purchaser must –
- 13.13.1 at least 5 days before the date for completion, *serve* evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been *served*, by the transferee named in the transfer *served* with that direction;
- 13.13.2 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
- 13.13.3 forward the *settlement cheque* to the payee immediately after completion; and
- 13.13.4 *serve* evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.
- 14 Adjustments**
- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.6 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 14.6.1 the amount is to be treated as if it were paid; and
- 14.6.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.
- 15 Date for completion**
- The *parties* must complete by the date for completion and, if they do not, a *party* can *serve* a notice to complete if that *party* is otherwise entitled to do so.
- 16 Completion**
- **Vendor**
- 16.1 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 16.2 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 16.3 *Normally*, on completion the vendor must cause the legal title to the *property* (being an estate in fee simple) to pass to the purchaser free of any mortgage or other interest, subject to any necessary registration.
- 16.4 The legal title to the *property* does not pass before completion.

- 16.5 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
- 16.6 If a party serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.
- **Purchaser**
- 16.7 On completion the purchaser must pay to the vendor, by cash (up to \$2,000) or *settlement cheque* –
- 16.7.1 the price less any:
- deposit paid;
 - *FRCGW remittance* payable;
 - *GSTRW payment*; and
 - amount payable by the vendor to the purchaser under this contract; and
- 16.7.2 any other amount payable by the purchaser under this contract.
- 16.8 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 16.9 If any of the deposit is not covered by a bond or guarantee, on completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit.
- 16.10 On completion the deposit belongs to the vendor.
- **Place for completion**
- 16.11 *Normally*, the parties must complete at the completion address, which is –
- 16.11.1 if a special completion address is stated in this contract - that address; or
- 16.11.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
- 16.11.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 16.12 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 16.13 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.
- 17 Possession**
- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).
- 18 Possession before completion**
- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
- 18.2.2 make any change or structural alteration or addition to the *property*; or
- 18.2.3 contravene any agreement between the parties or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
- 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
- 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the parties or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.
- 19 Rescission of contract**
- 19.1 If this contract expressly gives a party a right to *rescind*, the party can exercise the right –
- 19.1.1 only by *serving* a notice before completion; and
- 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a party exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
- 19.2.2 a party can claim for a reasonable adjustment if the purchaser has been in possession;
- 19.2.3 a party can claim for damages, costs or expenses arising out of a breach of this contract; and
- 19.2.4 a party will not otherwise be liable to pay the other party any damages, costs or expenses.

- 20 Miscellaneous**
- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.3);
- 20.6.2 served if it is served by the *party* or the *party's solicitor*;
- 20.6.3 served if it is served on the *party's solicitor*, even if the *party* has died or any of them has died;
- 20.6.4 served if it is served in any manner provided in s170 of the Conveyancing Act 1919;
- 20.6.5 served if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
- 20.6.6 served on a person if it (or a copy of it) comes into the possession of the person; and
- 20.6.7 served at the earliest time it is served, if it is served more than once.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
- 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *servicing* a transfer of itself implies acceptance of the *property* or the title.
- 20.14 The details and information provided in this contract (for example, on pages 1 - 3) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.
- 21 Time limits in these provisions**
- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.
- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.
- 21.6 Normally, the time by which something must be done is fixed but not essential.
- 22 Foreign Acquisitions and Takeovers Act 1975**
- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.
- 23 Strata or community title**
- **Definitions and modifications**
- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
- a registered or registrable change from by-laws set out in this contract;
 - a change from a development or management contract or statement set out in this contract; or
 - a change in the boundaries of common property;
- 23.2.2 'common property' includes association property for the scheme or any higher scheme;
- 23.2.3 'contribution' includes an amount payable under a by-law;
- 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s26 Community Land Management Act 1989;
- 23.2.5 'information notice' includes a strata information notice under s22 Strata Schemes Management Act 2015 and a notice under s47 Community Land Management Act 1989;

- 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
- 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
- 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
- 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
- normal expenses;
 - due to fair wear and tear;
 - disclosed in this contract; or
 - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.5 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
- 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
- 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.
- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 The purchaser must give the vendor 2 copies of an information notice addressed to the owners corporation and signed by the purchaser.
- 23.11 The vendor must complete and sign 1 copy of the notice and give it to the purchaser on completion.
- 23.12 Each *party* can sign and give the notice as agent for the other.
- 23.13 The vendor must *serve* an information certificate issued after the contract date in relation to the lot, the scheme or any higher scheme at least 7 days before the date for completion.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.

- 24 Tenancies**
- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* –
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion –
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if –
- a disclosure statement required by the Retail Leases Act 1994 was not given when required;
 - such a statement contained information that was materially false or misleading;
 - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
 - the lease was entered into in contravention of the Retail Leases Act 1994.
- 24.4 If the *property* is subject to a tenancy on completion –
- 24.4.1 the vendor must allow or transfer –
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
 - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose; and
 - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- a proper notice of the transfer (an attornment notice) addressed to the tenant;
 - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
 - a copy of any disclosure statement given under the Retail Leases Act 1994;
 - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
 - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.
- 25 Qualified title, limited title and old system title**
- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
- 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
- 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
- 25.5.3 *normally*, need not include a Crown grant; and
- 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
- 25.6.2 the purchaser does not have to *serve* the form of transfer until after the vendor has *served* a proper abstract of title; and
- 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –

- 25.7.1 normally, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 The vendor must give a proper covenant to produce where relevant.
- 25.9 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.10 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the Registrar-General of the registration copy of that document.
- 26 Crown purchase money**
- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
- 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
- 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
- 26.4 To the extent the purchaser is liable for it, the parties must adjust any interest under clause 14.1.
- 27 Consent to transfer**
- 27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under legislation or a planning agreement.
- 27.2 The purchaser must properly complete and then serve the purchaser's part of an application for consent to transfer of the land (or part of it) within 7 days after the contract date.
- 27.3 The vendor must apply for consent within 7 days after service of the purchaser's part.
- 27.4 If consent is refused, either party can rescind.
- 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a party, then that party can rescind within 7 days after receipt by or service upon the party of written notice of the conditions.
- 27.6 If consent is not given or refused –
- 27.6.1 within 42 days after the purchaser serves the purchaser's part of the application, the purchaser can rescind; or
- 27.6.2 within 30 days after the application is made, either party can rescind.
- 27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –
- 27.7.1 under a planning agreement; or
- 27.7.2 in the Western Division.
- 27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
- 27.9 The date for completion becomes the later of the date for completion and 14 days after service of the notice granting consent to transfer.
- 28 Unregistered plan**
- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
- 28.2 The vendor must do everything reasonable to have the plan registered within 6 months after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under legislation.
- 28.3 If the plan is not registered within that time and in that manner –
- 28.3.1 the purchaser can rescind; and
- 28.3.2 the vendor can rescind, but only if the vendor has complied with clause 28.2 and with any legislation governing the rescission.
- 28.4 Either party can serve notice of the registration of the plan and every relevant lot and plan number.
- 28.5 The date for completion becomes the later of the date for completion and 21 days after service of the notice.
- 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.
- 29 Conditional contract**
- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
- 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
- 29.3 If this contract says the provision is for the benefit of a party, then it benefits only that party.
- 29.4 If anything is necessary to make the event happen, each party must do whatever is reasonably necessary to cause the event to happen.
- 29.5 A party can rescind under this clause only if the party has substantially complied with clause 29.4.
- 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a party who has the benefit of the provision, the party can rescind within 7 days after either party serves notice of the condition.
- 29.7 If the parties can lawfully complete without the event happening –
- 29.7.1 if the event does not happen within the time for it to happen, a party who has the benefit of the provision can rescind within 7 days after the end of that time;
- 29.7.2 if the event involves an approval and an application for the approval is refused, a party who has the benefit of the provision can rescind within 7 days after either party serves notice of the refusal; and

- 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
- either *party serving* notice of the event happening;
 - every *party* who has the benefit of the provision *serving* notice waiving the provision; or
 - the end of the time for the event to happen.
- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
- 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
- 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* *serves* notice of the event happening.
- 29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.
- 30 Electronic transaction**
- 30.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* if –
- 30.1.1 this contract says that it is an *electronic transaction*;
- 30.1.2 the *parties* otherwise agree that it is to be conducted as an *electronic transaction*; or
- 30.1.3 the *conveyancing rules* require it to be conducted as an *electronic transaction*.
- 30.2 However, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.2.1 if the land is not *electronically tradeable* or the transfer is not eligible to be lodged electronically; or
- 30.2.2 if, at any time after the *effective date*, but at least 14 days before the date for completion, a *party* *serves* a notice stating a valid reason why it cannot be conducted as an *electronic transaction*.
- 30.3 If, because of clause 30.2.2, this *Conveyancing Transaction* is not to be conducted as an *electronic transaction* –
- 30.3.1 each *party* must –
- bear equally any disbursements or fees; and
 - otherwise bear that *party's* own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 30.3.2 if a *party* has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the *parties*, that amount must be adjusted under clause 14.2.
- 30.4 If this *Conveyancing Transaction* is to be conducted as an *electronic transaction* –
- 30.4.1 to the extent that any other provision of this contract is inconsistent with this clause, the provisions of this clause prevail;
- 30.4.2 *normally*, words and phrases used in this clause 30 (italicised and in Title Case, such as *Electronic Workspace* and *Lodgment Case*) have the same meaning which they have in the *participation rules*;
- 30.4.3 the *parties* must conduct the *electronic transaction* –
- in accordance with the *participation rules* and the *ECNL*; and
 - using the nominated *ELN*, unless the *parties* otherwise agree;
- 30.4.4 a *party* must pay the fees and charges payable by that *party* to the *ELNO* and the *Land Registry* as a result of this transaction being an *electronic transaction*;
- 30.4.5 any communication from one *party* to another *party* in the *Electronic Workspace* made –
- after the *effective date*; and
 - before the receipt of a notice given under clause 30.2.2;
- is taken to have been received by that *party* at the time determined by s13A of the *Electronic Transactions Act 2000*; and
- 30.4.6 a document which is an *electronic document* is *served* as soon as it is first *Digitally Signed* in the *Electronic Workspace* on behalf of the *party* required to *serve* it.
- 30.5 *Normally*, the vendor must *within 7 days* of the *effective date* –
- 30.5.1 create an *Electronic Workspace*;
- 30.5.2 *populate* the *Electronic Workspace* with *title data*, the date for completion and, if applicable, *mortgagee details*; and
- 30.5.3 invite the purchaser and any *discharging mortgagee* to the *Electronic Workspace*.
- 30.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 30.5, the purchaser may create an *Electronic Workspace*. If the purchaser creates the *Electronic Workspace* the purchaser must –
- 30.6.1 *populate* the *Electronic Workspace* with *title data*;
- 30.6.2 create and *populate* an *electronic transfer*;
- 30.6.3 *populate* the *Electronic Workspace* with the date for completion and a nominated *completion time*; and
- 30.6.4 invite the vendor and any *incoming mortgagee* to join the *Electronic Workspace*.
- 30.7 *Normally*, *within 7 days* of receiving an invitation from the vendor to join the *Electronic Workspace*, the purchaser must –
- 30.7.1 join the *Electronic Workspace*;
- 30.7.2 create and *populate* an *electronic transfer*;
- 30.7.3 invite any *incoming mortgagee* to join the *Electronic Workspace*; and
- 30.7.4 *populate* the *Electronic Workspace* with a nominated *completion time*.

- 30.8 If the purchaser has created the *Electronic Workspace* the vendor must *within 7 days* of being invited to the *Electronic Workspace* –
- 30.8.1 join the *Electronic Workspace*;
 - 30.8.2 populate the *Electronic Workspace* with *mortgagee details*, if applicable; and
 - 30.8.3 invite any *discharging mortgagee* to join the *Electronic Workspace*.
- 30.9 To complete the financial settlement schedule in the *Electronic Workspace* –
- 30.9.1 the purchaser must provide the vendor with *adjustment figures* at least *2 business days* before the date for completion;
 - 30.9.2 the vendor must confirm the *adjustment figures* at least *1 business day* before the date for completion; and
 - 30.9.3 if the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must populate the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least *2 business days* before the date for completion.
- 30.10 Before completion, the *parties* must ensure that –
- 30.10.1 all *electronic documents* which a *party* must *Digitally Sign* to complete the *electronic transaction* are populated and *Digitally Signed*;
 - 30.10.2 all certifications required by the *ECNL* are properly given; and
 - 30.10.3 they do everything else in the *Electronic Workspace* which that *party* must do to enable the *electronic transaction* to proceed to completion.
- 30.11 If completion takes place in the *Electronic Workspace* –
- 30.11.1 payment electronically on completion of the price in accordance with clause 16.7 is taken to be payment by a single *settlement cheque*;
 - 30.11.2 the completion address in clause 16.11 is the *Electronic Workspace*; and
 - 30.11.3 clauses 13.13.2 to 13.13.4, 16.8, 16.12, 16.13 and 31.2.2 to 31.2.4 do not apply.
- 30.12 If the computer systems of any of the *Land Registry*, the *ELNO* or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the *parties*, a failure to complete this contract for that reason is not a default under this contract on the part of either *party*.
- 30.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 30.13.1 all *electronic documents Digitally Signed* by the vendor, the *certificate of title* and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* shall be taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land comprised in the *certificate of title*; and
 - 30.13.2 the vendor shall be taken to have no legal or equitable interest in the *property*.
- 30.14 A *party* who holds a *certificate of title* must act in accordance with any *Prescribed Requirement* in relation to the *certificate of title* but if there is no *Prescribed Requirement*, the vendor must *serve the certificate of title* after completion.
- 30.15 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 30.15.1 holds them on completion in escrow for the benefit of; and
 - 30.15.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.
- 30.16 In this clause 30, these terms (in any form) mean –
- adjustment figures* details of the adjustments to be made to the price under clause 14;
 - certificate of title* the paper duplicate of the folio of the register for the land which exists immediately prior to completion and, if more than one, refers to each such paper duplicate;
 - completion time* the time of day on the date for completion when the *electronic transaction* is to be settled;
 - conveyancing rules* the rules made under s12E of the Real Property Act 1900;
 - discharging mortgagee* any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a *Digitally Signed* discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the *property* to be transferred to the purchaser;
 - ECNL* the Electronic Conveyancing National Law (NSW);
 - effective date* the date on which the *Conveyancing Transaction* is agreed to be an *electronic transaction* under clause 30.1.2 or, if clauses 30.1.1 or 30.1.3 apply, the contract date;
 - electronic document* a dealing as defined in the Real Property Act 1900 which may be created and *Digitally Signed* in an *Electronic Workspace*;
 - electronic transfer* a transfer of land under the Real Property Act 1900 for the *property* to be prepared and *Digitally Signed* in the *Electronic Workspace* established for the purposes of the *parties'* *Conveyancing Transaction*;

<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>electronically tradeable</i>	a land title that is Electronically Tradeable as that term is defined in the <i>conveyancing rules</i> ;
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>mortgagee details</i>	the details which a <i>party</i> to the <i>electronic transaction</i> must provide about any <i>discharging mortgagee</i> of the <i>property</i> as at completion;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ; and
<i>title data</i>	the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> .

31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
- 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 The purchaser must –
- 31.2.1 at least 5 days before the date for completion, serve evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under clause 4.3 has been served, by the transferee named in the transfer served with that direction;
- 31.2.2 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
- 31.2.3 forward the *settlement cheque* to the payee immediately after completion; and
- 31.2.4 serve evidence of receipt of payment of the *FRCGW remittance*.
- 31.3 The vendor cannot refuse to complete if the purchaser complies with clauses 31.2.1 and 31.2.2.
- 31.4 If the vendor serves any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 7 days after that service and clause 21.3 does not apply to this provision.
- 31.5 If the vendor serves in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.2 and 31.3 do not apply.

32 Residential off the plan contract

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the *Conveyancing Act 1919* (the *Division*).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the *Division*.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by clause 6A of the *Conveyancing (Sale of Land) Regulation 2017* –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.
- 32.4 This clause does not apply to a contract made before the commencement of the amendments to the *Division* under the *Conveyancing Legislation Amendment Act 2018*.

**THESE ARE THE SPECIAL CONDITIONS IN THE CONTRACT FOR SALE OF LAND
BETWEEN THE VENDOR AND PURCHASER
AS SET OUT ON THE FRONT PAGE OF CONTRACT FOR SALE.**

- 33.1 In the construction of this contract except to the extent that such construction would be excluded by or be repugnant to the context:-
- (a) Reference to a "person" shall include a corporation;
 - (b) Words importing the singular or plural number shall also import the plural or singular number respectively; and
 - (c) Words importing the masculine, feminine or neuter gender shall also import the other two genders.
- 33.2 Where there is any inconsistency between the printed contract and these Special Conditions these Special Conditions shall prevail.
- 33.3 This Contract is varied as follows:
- (a) Clause 7.1.1 is deleted;
 - (b) Clause 7.2.6 by replacing "3 months" with "6 weeks".
 - (c) Clause 7.2.6 by adding "and despite Clause 7.2.5 the amount held and all net interest must be paid to the vendor" at the end of the clause;
 - (d) Clauses 10.1.8 and 10.1.9 by substituting "existence" for "substance";
 - (e) Clause 11.2 is deleted;
 - (f) Delete Clause 16.8 and replace with the following clause:
"If the vendor requires more than five bank or building society cheques, the vendor must pay \$10.00 for each extra bank or building society cheque";
 - (g) Clause 18 is amended by adding the following clause 18.8:
"The purchaser cannot make a claim or requisition or delay settlement after entering into possession of the property".
 - (h) Clause 25.1.1 delete the word "Limited";
 - (i) Clause 25.7 is deleted.
- 34 Completion shall take place:-
- (a) On the date for completion stated on the front page of this Contract PROVIDED THAT if such day is not a business day then on the first business day after the date for completion stated on the front page of this Contract or such earlier date as the parties may agree (completion date).
 - (b) If the Purchaser does not complete this agreement by the completion date and, at that date the Vendor is ready, willing and able to complete and the Vendor issues a Notice to Complete, the sum of three hundred and thirty dollars (\$330.00) inclusive of GST to cover the legal costs and disbursements incurred by the Vendor's solicitors and drafting and serving a Notice to Complete is to be allowed by the Purchaser as an additional adjustment on completion and it is an essential term of this contract that such payment be so paid.
 - (c) If a party is entitled to provide a Notice to Complete then fourteen (14) days (excluding the date on which the notice is given) is a reasonable period to allow for completion in that notice.
- 35 If at any time prior to completion the Vendor or Purchaser (or any of them):-
- (a) being an individual die or becomes mentally ill or is declared bankrupt or enters into any scheme or makes any assignment for the benefit of creditors; or
 - (b) being a company is wound up, is placed in liquidation or a Controller (as defined in Section 9 of the *Corporations Act 2001 (Cth)* is appointed to that party

then either party may at any time thereafter rescind this agreement by notice in writing served upon the other party and in respect of such rescission the terms of Clause 19 shall apply.

- 36 If the Purchaser does not complete this agreement in accordance with Clause 34 and the delay in completion is not caused by the Vendor then:-
- (a) The Purchaser shall be liable to the Vendor for damages, for the lost purchase price plus interest on the balance of the purchase price, at the rate of ten per centum (10%) per annum from, but excluding the completion date to and including the date upon which the purchase price and other monies due under this clause (including, without limitation) interest at cost (including legal costs and disbursements) are satisfied; and
 - (b) Subclause (a) is an essential term of this agreement and will not merge upon completion.
 - (c) The purchaser cannot require the Vendor to complete this contract unless interest is payable under subclause (a) of this contract be paid to the Vendor upon completion.

- 37 Notwithstanding any principle of law to the contrary, the Purchaser shall have the right to make any objection, requisition or claim in respect of:-
- (a) any encroachment onto any adjoining land by any building or structure on the land, other than a dividing fence as defined in the Dividing Fences Act 1991; or
 - (b) any encroachment onto the land by any building or structure on any adjoining land, other than a dividing fence as defined in the Dividing Fences Act 1991; or
 - (c) any non-compliance with the Local Government Act 1993, or any regulation under that Act, in respect of any building or structure on the land;

unless the encroachment or non-compliance is disclosed and clearly described in this contract.

38 **REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS**

38.1 This Contract is the whole agreement between the parties and contains all representations, warranties, promises and agreements of the parties in respect of its subject matter.

38.2 The Purchaser represents and warrants that:

- (a) unless otherwise stated in this Agreement, the Purchaser has not entered into this Agreement in reliance on any express or implied statement, representation, promise or warranty made by the Vendor or on its behalf in respect of any matter relating to the property (including any improvements, fixtures, furnishings, chattels and inclusions) or which has or may have an affect on the property including but not limited to:
 - (i) its suitability for any use (including any restrictions applying to that use);
 - (ii) any financial return or income to be derived from it;
 - (iii) any services or proposed services to the property, being a joint service with another lot, the pipes or connections of any Authority responsible for the provision and maintenance of any services passing through the property.
- (b) the Purchaser relies on the Purchaser's own enquiries in relation to all matters affecting the property, whether or not disclosed in this Agreement.
- (c) Without limitation to any other provision in this Agreement the Purchaser confirms, warrants and acknowledges to the Vendor that the Purchaser has undertaken its own investigations and enquiries in respect of the property prior to entering into this Agreement, and any material or information provided or made available by or on behalf of the Vendor, has been provided for the purpose of assisting the Purchaser in determining the direction of its own independent enquiries into, and independent assessment of the Property, and prior to entering into this Contract the Purchaser has

satisfied himself or herself with respect to all matters relating or arising out of those investigations and inspections in respect of the Property;

- 39 The Purchaser warrants that he was not introduced to the property by any real estate agent other than the vendor's agent (if any) referred to in "vendor's agent" on the front page of this contract and agrees to be responsible for any commission payable by the Vendor as a result of a breach of such warranty. The parties agree that the obligations under this Special Condition shall not merge on completion.
- 40 Condition 14.1 of this Contract is hereby varied by the addition of the following sentence after the word "liable":-
The amounts and figures for water consumption furnished by the relevant water rating authority, even if estimated or provisional, shall be conclusive for the purposes of such adjustment.
- 41 The parties agree that the solicitor or conveyancer acting for them has the authority to make amendments to this Contract on behalf of the party they represent pursuant to the instructions of that party.
- 42 The Purchaser acknowledges that he is purchasing the property in its present condition and state of repair and enters into this agreement consequent upon his own inspection of the property, improvements and inclusions and subject to any infestation and dilapidation and that the Vendor has not nor has anyone on the Vendor's behalf made any representation with respect to the condition of the property and the Purchaser shall make no objection or requisition or claim for compensation in respect of same.
- 43 **Tenancy**
If a tenant is currently in occupation of the property and if page 1 of this Contract provides for the vendor to give vacant possession of the property on completion of this contract, then the following provisions will apply:
(a) This Contract is conditional upon the vendor obtaining vacant possession of the property from the tenant. The vendor will forthwith serve a notice on the tenant and will pursue that notice and the obtaining of vacant possession.
(b) In the event that vacant possession is not available within 21 days after the completion date herein, time being of the essence, and if completion of this Contract has not been effected, then either party may rescind this Contract and the provisions of Clause 19 herein will apply.
- 44 **Auction**
The sale of the property is subject to the right by the Vendor or by any person on behalf of the Vendor or auctioneer to make one (1) bid (and only one (1) bid). The Vendor hereby expressly reserves the right to make one (1) bid at the auction.
- 45 **Deposit Bond**
(a) The expression "Bond" in this Contract means a Deposit Guarantee Bond issued to the Vendor at the request of the Purchaser by an entity acceptable to the Vendor and the Vendor's sole discretion (either named in this Contract or otherwise agreed between the Vendor and the Purchaser) and in or to the effect of the form set out below.
(b) The delivery to the Vendor or the Vendor's solicitor of a Bond which subject to (i) and (ii) of this sub-clause, be deemed for the purposes of this Contract to be payment of the guaranteed payment of the amount expressed in the Bond and the following provisions shall apply:
(i) On completion of this Contract or at such other time as may be provided for the deposit to be accounted for to the Vendor, the Purchaser shall pay the amount stipulated in the Bond to the Vendor in cash or by unendorsed bank cheque, or

- (ii) If the Vendor serves on the Purchaser a notice in writing claiming to forfeit the deposit, then such service shall operate as a demand upon the Purchaser for payment forthwith of the deposit (or so much thereof as has not been paid) and upon failure of the Purchaser to pay the same within two (2) clear business days of service of such notice the Vendor shall be entitled to demand payment from the Guarantor in accordance with the provisions of the Bond and the provisions of this Contract in relation to the deposit shall then apply as though this Contract had just been made and required payment of the deposit within two (2) clear business days of demand on the Guarantor.

46 **Requisitions on Title**

The purchaser must not raise or make any general requisitions on title pursuant to clause 5 of this Contract except for the accepted Requisitions on Title annexed to this Contract. Nothing in this clause prevents the purchaser from making any specific requisitions in relation to a matter arising out of this Contract except where the Contract precludes the purchaser from making any requisitions.

47 **Electronic Execution by Purchaser**

- (a) The parties acknowledge and agree that the execution of this Contract by the purchaser may be effected by the use of either scanned or emailed signatures (hereinafter called "the manner of the purchaser's execution of this Contract").
- (b) The parties agree that they will not make any objection or claim any right to terminate or rescind this Contract or delay the completion of this Contract, due to the manner of the purchaser's execution of this Contract.
- (c) The purchaser agrees to provide to the vendor the original signature page of this Contract within ten (10) days after the date of this Contract.

48 **Electronic Execution by Vendor**

- (a) The parties acknowledge and agree that the execution of this Contract by the vendor may be effected by the use of either scanned or emailed signatures (hereinafter called "the manner of the vendor's execution of this Contract").
- (b) The parties agree that they will not make any objection or claim any right to terminate or rescind this Contract or delay the completion of this Contract, due to the manner of the purchaser's execution of this Contract.
- (c) The vendor agrees to provide to the purchaser the original signature page of this Contract within ten (10) days after the date of this Contract.

49 **Electronic Execution of the Contract**

- (a) For the purpose of interpreting this clause, Digital Signature and Digitally Sign have the same meaning given to those terms in the Electronic Conveyancing National Law (NSW).
- (b) The parties acknowledge and agree that execution of this Contract by either party may be effected by the use of a digital signature, using whatever software program that party wishes to use for that purpose.
- (c) The parties agree that they will not make any objection or claim any right to terminate or rescind this Contract or delay the completion of this Contract, due to the use of digital signature on this Contract.
- (d) If this Contract is electronically sent by email to either party's solicitor bearing one or the parties' digital signatures, then it will be taken to have the same effect as physical delivery of that document, bearing the original signature of that person who digitally signed it.

50 **Extension(s) to Cooling Off Period**

If a cooling-off period applies to this Contract then on the second and each subsequent occasion that the purchaser requests and extension thereof and irrespective of whether the request is granted by the

vendor, the purchaser must on completion pay a further sum of \$220.00 inclusive of GST for the vendor's additional legal costs associated with dealing with the purchaser's request(s). This fee is agreed by the parties to be a genuine and reasonable pre-estimate of the vendor's actual costs. The payment of this fee is an essential term of the completion of this Contract.

51 **COVID-19**

51.1 In the event the vendor, or if more than one, any one of them, prior to completion:

- (a) contract the COVID-19 virus;
- (b) are directed to self-isolate in the property; or
- (c) need to care for an immediate member of their household or family in the property as a result of the matters listed in subclause (a) or (b) above;

Then the parties agree that the following provisions shall apply:

- (i) The vendor shall provide written evidence from a medical practitioner or other appropriate authority confirming the diagnosis of COVID-19 and/or a direction for self-isolation to the purchaser within seven (7) of receiving same. For the purposes of this clause a statutory declaration made by the vendor or if more than one, one of them, shall be satisfactory evidence of a direction to self-isolate; and
- (ii) Completion shall take place on the date being seven (7) days from the date on which the party is permitted to cease self-isolation and leave the property provided such date shall be no later than twenty eight (28) days from the date on which the purchaser receives the written evidence set out in subclause (i) above.

52 **Sewer Lines Location Diagram**

The vendor discloses that Hunter Water Corporation will not provide a Sewer Lines Location Diagram for the subject property and the purchaser cannot make any objection, requisition, claim for compensation, rescind or terminate in respect to such disclosure.

53 **Guarantee and Indemnity**

- (a) The persons whose signatures appear at the end of these Special Conditions under the guarantee execution clauses (hereinafter called "the Guarantors") being directors of the Purchaser under this Contract, in consideration of the Vendor having at the Guarantors' request, which request is testified by the Guarantors signatures hereto, agreed to enter into a Contract (hereinafter called "the said Contract") to sell the within Property to the Purchaser, **HEREBY IRREVOCABLY AND UNCONDITIONALLY GUARANTEE** to the Vendor the due and punctual payment by the Purchaser to the Vendor of all sums of money as shall or may at any time or times hereafter become due, owing or payable by the Purchaser to the Vendor under the terms of and/or as a result of the said Contract (hereinafter called "the guaranteed moneys") at the times and in the manner as set out in the said Contract or otherwise on demand **AND** also the due and punctual performance and observance by the Purchaser of all and singular the covenants provisions and stipulations on the part of the Purchaser to be so performed and observed under and pursuant to the said Contract.

AND IT IS HEREBY AGREED AND DECLARED:-

- (b) That this Guarantee shall be a continuing guarantee until the whole of the guaranteed moneys are paid and shall be independent of and additional to and in no way affected by any other security instrument or document which the Vendor now holds or hereafter may obtain or hold for any indebtedness or liability (whether present future direct or contingent matured or unmatured joint or several) of the Purchaser or of the Guarantors to the Vendor.
- (c) That the Vendor may at any time and from time to time grant or agree to grant to the Purchaser any time or other indulgence or consideration and may compound with or release or assent to the winding up of the Purchaser and may wholly or partially release or discharge the Purchaser from any of the terms set out in the said Contract and may vary any of the terms of the said

Contract without notice to or the consent of the Guarantors without affecting or discharging the liability of the Guarantors.

- (d) The Guarantors agree and declare that the Vendor shall not be bound at any time to exercise any of its rights under the said Contract or any collateral or other contract and any omission, failure or refusal by the Vendor so to do shall not prejudice, affect, discharge or diminish any of the liabilities of the Guarantors hereunder and the liability of the Guarantors hereunder shall not be affected or discharged by any other laches or mistakes on the part of the Vendor.
- (e) Should the liability of the Guarantors hereunder become merged in any judgment or order then the Guarantors will pay to the Vendor interest at the rate per centum per annum mentioned in the said Contract on the amount owing under such judgment or order from the date thereof until payment.
- (f) If by reason of any statute or any rule of law or for any other reason whatsoever any covenant, term or condition of the said Contract is rendered unenforceable by the Vendor against the Purchaser then the Guarantors for the consideration aforesaid agree hereby at all times to indemnify the Vendor to the full extent in respect of the guarantees moneys or any part thereof which have thereby been rendered unrecoverable by the Vendor from the Purchaser and the Guarantors further indemnify the Vendor against and in respect of any damage, loss, claim, demand, cost, expenses or obligation direct or indirect which the Vendor has or may suffer, incur or sustain.
- (g) The Guarantors for the consideration aforesaid will pay on demand to the Vendor immediately the same becomes or may become due and payable, all or part of the guarantee moneys.
- (h) This Guarantee shall be binding on each of the Guarantors who sign the same notwithstanding that any one or more of the Guarantors named herein may not have signed or may never sign this Guarantee.
- (i) In order to give full effect to the provisions of this Guarantee, the Guarantors declare that the Vendor shall be at liberty to act as though the Guarantors are the principal Debtor and the Guarantors waive all rights either at law or under any Statute that the Guarantors might otherwise be entitled to claim or enforce. Any real property or other property or both owned by the Guarantors is upon a notice or demand hereunder charged and mortgaged and the Vendor has a right to caveat such property.
- (j) Any notice or demand to be given to or made upon the Guarantors by the Vendor hereunder shall be deemed to be fully given or made if the same be in writing and be signed by the Vendor or the Manager or Acting Manager for the time being of the Vendor or any Attorney or the Vendor or by its Solicitors.
- (k) The Guarantors do not execute this instrument as a result of or by reason of any promise, representation, statement or information of any nature or kind whatsoever given or offered to them by or on behalf of the Vendor whether in answer to any inquiry by or on behalf of the Guarantors or not.
- (l) This Guarantee shall not be determined by the death or winding up of the Guarantors or any of them.
- (m) This Guarantee, being given for valuable consideration, is irrevocable until the said Contract has been fully performed and carried into effect by the Purchaser.
- (n) That except to the extent that such interpretation shall be excluded by or be repugnant to the context whenever the same is used herein the word "Guarantors" shall mean and include the Guarantors, their executors, administrators and assigns or (in the case of a Company) such Guarantor and its successors and assigns and when two or more Guarantors are parties hereto shall mean and include every person and company who or which is a Guarantor and each or any of them, their, his or its assigns and the executors and administrators or successors of each Guarantor and when two or more Guarantors are parties to this Guarantee and the obligations and agreements on their part herein contained or implied shall bind them and every two or greater number of them jointly and each of them severally; and the expression "the Vendor"

shall mean and include the Vendor, its successors and assigns, words importing the singular number or plural number shall be deemed to include the plural number and the singular number respectively and words importing any gender shall include every gender; and reference in case to a corporation to winding up shall include Official Management Receivership or Scheme of Arrangement.

I certify that the Guarantor with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the Guarantor

Signature of the Guarantor: _____

Signature of witness: _____

Name of witness: _____

Address of witness: _____

I certify that the Guarantor with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the Guarantor

Signature of the Guarantor: _____

Signature of witness: _____

Name of witness: _____

Address of witness: _____

RESIDENTIAL PROPERTY REQUISITIONS ON TITLE

Vendor: Moondance Nominees Pty Ltd as trustee for the James Mae Property Trust ACN 620873396
Purchaser:
Property: 218 Settlers Bvd, Chisholm
Dated:

Possession and tenancies

1. Vacant possession of the property must be given on completion unless the Contract provides otherwise.
2. Is anyone in adverse possession of the property or any part of it?
3.
 - (a) What are the nature and provisions of any tenancy or occupancy?
 - (b) If they are in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment.
 - (c) Please specify any existing breaches.
 - (d) All rent should be paid up to or beyond the date of completion.
 - (e) Please provide details of any bond together with the Rental Bond Board's reference number.
 - (f) If any bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
4. Is the property affected by a protected tenancy? (A tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948*.)
5. If the tenancy is subject to the *Residential Tenancies Act 1987*:
 - (a) has either the vendor or any predecessor or the tenant applied to the Residential Tenancies Tribunal for an order?
 - (b) have any orders been made by the Residential Tenancies Tribunal? If so, please provide details.

Title

6. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the property free from all encumbrances.
7. On or before completion, any mortgage or caveat or writ must be discharged, withdrawn or cancelled as the case may be or, in the case of a mortgage or caveat, an executed discharge or withdrawal handed over on completion.
8. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
9. When and where may the title documents be inspected?
10. Are the inclusions or fixtures subject to any charge or hiring agreement? If so, details must be given and any indebtedness discharged prior to completion or title transferred unencumbered to the vendor prior to completion.

Adjustments

11. All outgoings referred to in clause 14.1 of the Contract must be paid up to and including the date of completion.
12. Is the vendor liable to pay land tax or is the property otherwise charged or liable to be charged with land tax? If so:
 - (a) to what year has a return been made?
 - (b) what is the taxable value of the property for land tax purposes for the current year?

Survey and building

13. Subject to the Contract, survey should be satisfactory and show that the whole of the property is available and that there are no encroachments by or upon the property and that all improvements comply with local government/planning legislation.
14. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
15.
 - (a) Have the provisions of the *Local Government Act*, the *Environmental Planning and Assessment Act 1979* and their regulations been complied with?
 - (b) Is there any matter that could justify the making of an upgrading or demolition order in respect of any building or structure?
 - (c) Has the vendor a Building Certificate which relates to all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
 - (d) Has the vendor a Final Occupation Certificate issued under the *Environmental Planning and Assessment Act 1979* for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
 - (e) In respect of any residential building work carried out in the last 7 years:
 - (i) please identify the building work carried out;
 - (ii) when was the building work completed?

- (iii) please state the builder's name and licence number;
 - (iv) please provide details of insurance under the *Home Building Act 1989*.
16. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the Council or any other authority concerning any development on the property?
 17. If a swimming pool is included in the property:
 - (a) when did construction of the swimming pool commence?
 - (b) is the swimming pool surrounded by a barrier which complies with the requirements of the *Swimming Pools Act 1992*?
 - (c) if the swimming pool has been approved under the *Local Government Act 1993*, please provide details.
 - (d) are there any outstanding notices or orders?
 18.
 - (a) To whom do the boundary fences belong?
 - (b) Are there any party walls?
 - (c) If the answer to (b) is yes, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.
 - (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
 - (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991* or the *Encroachment of Buildings Act 1922*?

Affectations

19. Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use other than those disclosed in the Contract?
20. Is the vendor aware of:
 - (a) any road, drain, sewer or storm water channel which intersects or runs through the land?
 - (b) any dedication to or use by the public of any right of way or other easement over any part of the land?
 - (c) any latent defects in the property?
21. Has the vendor any notice or knowledge that the property is affected by the following:
 - (a) any resumption or acquisition or proposed resumption or acquisition?
 - (b) any notice requiring work to be done or money to be spent on the property or any footpath or road adjoining? If so, such notice must be complied with prior to completion.
 - (c) any work done or intended to be done on the property or the adjacent street which may create a charge on the property or the cost of which might be or become recoverable from the purchaser?
 - (d) any sum due to any local or public authority? If so, it must be paid prior to completion.
 - (e) any realignment or proposed realignment of any road adjoining the property?
 - (f) any contamination?
22.
 - (a) Does the property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
 - (b) If so, do any of the connections for such services pass through any adjoining land?
 - (c) Do any service connections for any other property pass through the property?
23. Has any claim been made by any person to close, obstruct or limit access to or from the property or to an easement over any part of the property?

Capacity

24. If the Contract discloses that the vendor is a trustee, evidence should be produced to establish the trustee's power of sale.

Requisitions and transfer

25. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the registered power of attorney should be produced and found in order.
26. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
27. Searches, surveys, enquiries and inspection of title deeds must prove satisfactory.
28. The purchaser reserves the right to make further requisitions prior to completion.
29. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at completion date.



LAND
REGISTRY Title Search
SERVICES



NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 3328/1260060

SEARCH DATE	TIME	EDITION NO	DATE
17/6/2021	1:38 PM	2	15/6/2021

LAND

LOT 3328 IN DEPOSITED PLAN 1260060
AT CHISHOLM
LOCAL GOVERNMENT AREA MAITLAND
PARISH OF ALNWICK COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP1260060

FIRST SCHEDULE

MOONDANCE NOMINEES PTY LTD (T AR145850)

SECOND SCHEDULE (7 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 BK 1959 NO 280 LAND EXCLUDES MINERALS AND IS SUBJECT TO RIGHTS TO MINE
- 3 DP1260060 EASEMENT TO DRAIN WATER 1.5 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 DP1260060 EASEMENT TO DRAIN WATER 2.5 METRE(S) WIDE REFERRED TO AND NUMBERED (3) IN THE S.88B INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED
- 5 DP1260060 EASEMENT TO DRAIN WATER VARIABLE WIDTH AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 6 DP1260060 EASEMENT FOR FOOTINGS AND SUPPORT OF RETAINING WALL 0.9 METRE(S) WIDE REFERRED TO AND NUMBERED (11) IN THE S.88B INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED
- 7 DP1260060 RESTRICTION(S) ON THE USE OF LAND

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***


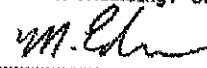
59383

PRINTED ON 17/6/2021

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.

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Received: 17/06/2021 13:38:46

PLAN FORM 6 (2020)	DEPOSITED PLAN ADMINISTRATION SHEET	SHEET 1 OF 5 SHEET(S)
Registered:  21/05/2021 Title System: TORRENS	Office Use Only <div style="text-align: center; font-size: 2em; font-weight: bold;">DP1260060</div>	
PLAN OF SUBDIVISION OF LOT 3099 DP1246288 AND LOT 3268 DP1246545 AND EASEMENTS IN LOT 1 DP716824 AND LOT 300 DP 593864	LGA: MAITLAND Locality: CHISHOLM Parish: ALNWICK County: NORTHUMBERLAND	
<p style="text-align: center;">Survey Certificate</p> I, <u>MURRAY PAUL EDWARDS</u> of <u>ADW JOHNSON PTY LIMITED</u> 7/335 HILLSBOROUGH ROAD, WARNERS BAY, NSW 2282 a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> , certify that: *(a) The land shown in the plan was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> , is accurate and the survey was completed on <u>10 MARCH 2021</u> , or *(b) The part of the land shown in the plan (being "excluding") was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2017</i>, the part surveyed is accurate and the survey was completed on the part not surveyed was compiled in accordance with that Regulation, or *(c) The land shown in this plan was compiled in accordance with the <i>Surveying and Spatial Information Regulation 2017</i> . Datum Line: <u>'A' - 'B'</u> Type: <u>*Urban/*Rural</u> The terrain is <u>*Level Undulating /*Steep Mountainous</u> . Signature:  Dated: <u>11-05-2021</u> Surveyor Identification No: <u>84</u> Surveyor registered under the <i>Surveying and Spatial Information Act 2002</i> *Strike out inappropriate words. **Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.	<p style="text-align: center;">Crown Lands NSW/Western Lands Office Approval</p> I, (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given. Signature: Date: File Number: Office:	
<p style="text-align: center;">Subdivision Certificate</p> I, <u>KRISTY COUSINS</u> *Authorised Person* General Manager *Accredited Certifier, certify that the provisions of s.6.15 of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein. Signature: <u>K Cousins</u> Registration number: Consent Authority: <u>MAITLAND CITY COUNCIL</u> Date of endorsement: <u>12 May 2021</u> Subdivision Certificate number: <u>18-2020</u> File number: <u>DA 18 2020</u> AUTHORIZED OFFICER *Strike through if inapplicable. Electronic signature of me, Kristy Cousins affixed by me or at my direction on 12 May 2021.	Statements of intention to dedicate public roads, create public reserves and drainage reserves, acquire/resume land. IT IS INTENDED TO DEDICATE ANNALIESE STREET, RIFFLE WAY, PETALTAIL STREET, TRAMEA WAY AND BASKER STREET TO THE PUBLIC AS PUBLIC ROAD.	
Plans used in the preparation of survey / compilation- DP 529007 DP 593864 DP 716824 DP 1246288 DP 1246543 DP 1246544 DP 1246545	If space insufficient, continue on PLAN FORM 6A Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A	
Surveyor's Reference: 180433(33)-DP-001-F		

PLAN FORM 6A (2019)

DEPOSITED PLAN ADMINISTRATION SHEET

SHEET 2 OF 5 SHEET(S)

Registered:



21/05/2021

Office Use Only

Office Use Only

PLAN OF SUBDIVISION OF LOT 3099 DP1246288 AND LOT 3268 DP1246545 AND EASEMENTS IN LOT 1 DP716824 AND LOT 300 DP 593864

DP1260060

- This sheet is for the provision of the following information as required:
- A schedule of lots and addresses - See 60(o) SSI Regulation 2017
 - Statements of intention to create and release affecting interests in accordance with section 88B Conveyancing Act 1919
 - Signatures and seals- see 195D Conveyancing Act 1919
 - Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate Number: ... 18-2020

Date of Endorsement: ... 12 May 2021

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919, AS AMENDED, IT IS INTENDED TO:

(A) CREATE:-

1. EASEMENT TO DRAIN WATER 1.5 WIDE (A)
2. EASEMENT TO DRAIN WATER 2.5 WIDE (B)
3. EASEMENT TO DRAIN WATER 2.5 WIDE (C)
4. EASEMENT TO DRAIN WATER VARIABLE WIDTH (D)
5. EASEMENT FOR DRAINAGE OF WATER 17 WIDE AND VARIABLE WIDTH (E)
6. POSITIVE COVENANT
7. POSITIVE COVENANT
8. EASEMENT FOR DRAINAGE OF WATER 17 WIDE AND VARIABLE WIDTH (H)
9. EASEMENT FOR DRAINAGE OF WATER 4 WIDE (I)
10. EASEMENT FOR DRAINAGE OF WATER 3, 4.2, 17 WIDE AND VARIABLE WIDTH (J)
11. EASEMENT FOR FOOTINGS AND SUPPORT OF RETAINING WALL 0.9 WIDE (K)
12. EASEMENT FOR FOOTINGS AND SUPPORT OF RETAINING WALL 0.9 WIDE (L)
13. EASEMENT FOR FOOTINGS AND SUPPORT OF RETAINING WALL 0.9 WIDE (M)
14. EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH (N)
15. POSITIVE COVENANT
16. RESTRICTION ON THE USE OF LAND
17. POSITIVE COVENANT

(B) RELEASE:-

1. EASEMENT FOR DRAINAGE OF WATER VARIABLE WIDTH (FC) (DP1246288)
2. EASEMENT FOR THE DRAINAGE OF WATER VARIABLE WIDTH (FD) (DP1246288)

If space insufficient use additional annexure sheet

Surveyor's Reference: 190433(33)-DP-001-F

PLAN FORM 6A (2019)

DEPOSITED PLAN ADMINISTRATION SHEET

SHEET 3 OF 6 SHEET(S)

Registered:



21/05/2021

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**PLAN OF SUBDIVISION OF LOT 3099 DP1246288
 AND LOT 3268 DP1246545 AND EASEMENTS IN
 LOT 1 DP716824 AND LOT 300 DP 593864**

DP1260060

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 - Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate Number: 18-2020

Date of Endorsement: 12 May 2021

CLAUSE 60(C) OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2017

LOT	STREET No.	STREET NAME	STREET TYPE	LOCALITY
3301	264	SETTLERS	BOULEVARD	CHISHOLM
3302	262	SETTLERS	BOULEVARD	CHISHOLM
3303	260	SETTLERS	BOULEVARD	CHISHOLM
3304	258	SETTLERS	BOULEVARD	CHISHOLM
3305	256	SETTLERS	BOULEVARD	CHISHOLM
3306	254	SETTLERS	BOULEVARD	CHISHOLM
3307	252	SETTLERS	BOULEVARD	CHISHOLM
3308	250	SETTLERS	BOULEVARD	CHISHOLM
3309	248	SETTLERS	BOULEVARD	CHISHOLM
3310	246	SETTLERS	BOULEVARD	CHISHOLM
3311	244	SETTLERS	BOULEVARD	CHISHOLM
3312	242	SETTLERS	BOULEVARD	CHISHOLM
3313	240	SETTLERS	BOULEVARD	CHISHOLM
3314	238	SETTLERS	BOULEVARD	CHISHOLM
3315	236	SETTLERS	BOULEVARD	CHISHOLM
3316	234	SETTLERS	BOULEVARD	CHISHOLM
3317	232	SETTLERS	BOULEVARD	CHISHOLM
3318	230	SETTLERS	BOULEVARD	CHISHOLM
3319	228	SETTLERS	BOULEVARD	CHISHOLM
3320	226	SETTLERS	BOULEVARD	CHISHOLM
3321	224	SETTLERS	BOULEVARD	CHISHOLM
3322	27	PETAL TAIL	STREET	CHISHOLM
3323	29	PETAL TAIL	STREET	CHISHOLM
3324	31	PETAL TAIL	STREET	CHISHOLM
3325	33	PETAL TAIL	STREET	CHISHOLM
3326	35	PETAL TAIL	STREET	CHISHOLM
3327	220	SETTLERS	BOULEVARD	CHISHOLM
3328	218	SETTLERS	BOULEVARD	CHISHOLM
3329	216	SETTLERS	BOULEVARD	CHISHOLM
3330	214	SETTLERS	BOULEVARD	CHISHOLM
3331	212	SETTLERS	BOULEVARD	CHISHOLM
3332	210	SETTLERS	BOULEVARD	CHISHOLM

If space insufficient use additional annexure sheet

Surveyor's Reference: 190433(33)-DP-001-F

PLAN FORM 6A (2019)

DEPOSITED PLAN ADMINISTRATION SHEET

SHEET 4 OF 5 SHEET(S)

Registered:



21/05/2021

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PLAN OF SUBDIVISION OF LOT 3099 DP1246288
AND LOT 3268 DP1246545 AND EASEMENTS IN
LOT 1 DP716824 AND LOT 300 DP 593864

DP1260060

Subdivision Certificate Number: ... 18-2020

Date of Endorsement: ... 12 May 2021


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 - Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

CLAUSE 60(C) OF THE SURVEYING AND SPATIAL INFORMATION REGULATION 2017				
3333	208	SETTLERS	BOULEVARD	CHISHOLM
3334	206	SETTLERS	BOULEVARD	CHISHOLM
3335	204	SETTLERS	BOULEVARD	CHISHOLM
3336	202	SETTLERS	BOULEVARD	CHISHOLM
3337	200	SETTLERS	BOULEVARD	CHISHOLM
3338	198	SETTLERS	BOULEVARD	CHISHOLM
3339	196	SETTLERS	BOULEVARD	CHISHOLM
3340	3	RIFFLE	WAY	CHISHOLM
3341	5	RIFFLE	WAY	CHISHOLM
3342	3	PETALTAIL	STREET	CHISHOLM
3343	5	PETALTAIL	STREET	CHISHOLM
3344	7	PETALTAIL	STREET	CHISHOLM
3345	9	PETALTAIL	STREET	CHISHOLM
3346	11	PETALTAIL	STREET	CHISHOLM
3347	13	PETALTAIL	STREET	CHISHOLM
3348	15	PETALTAIL	STREET	CHISHOLM
3349	17	PETALTAIL	STREET	CHISHOLM
3350	19	PETALTAIL	STREET	CHISHOLM
3351	21	PETALTAIL	STREET	CHISHOLM
3352	23	PETALTAIL	STREET	CHISHOLM
3353	2	PETALTAIL	STREET	CHISHOLM
3354	4	PETALTAIL	STREET	CHISHOLM
3355	6	PETALTAIL	STREET	CHISHOLM
3356	8	PETALTAIL	STREET	CHISHOLM
3357	10	PETALTAIL	STREET	CHISHOLM
3358	12	PETALTAIL	STREET	CHISHOLM
3359	14	PETALTAIL	STREET	CHISHOLM
3360	16	PETALTAIL	STREET	CHISHOLM
3361	222	SETTLERS	BOULEVARD	CHISHOLM
3362	194	SETTLERS	BOULEVARD	CHISHOLM
3363	215	SETTLERS	BOULEVARD	CHISHOLM
3364	196	SETTLERS	BOULEVARD	CHISHOLM

If space insufficient use additional annexure sheet

Surveyor's Reference: 190433(33)-DP-001-F

PLAN FORM 6A (2019) DEPOSITED PLAN ADMINISTRATION SHEET SHEET 5 OF 5 SHEET(S)

Registered:  21/05/2021 Office Use Only

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PLAN OF SUBDIVISION OF LOT 3099 DP1246288 AND LOT 3268 DP1246545 AND EASEMENTS IN LOT 1 DP716824 AND LOT 300 DP 593864

DP1260060

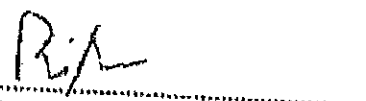
Subdivision Certificate Number: ... 18-2020
Date of Endorsement: ... 12 May 2021

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- A schedule of lots and addresses - See 60(c) SSI Regulation 2017
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 - Signatures and seals- see 195D Conveyancing Act 1919
 - Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Executed by AVID RESIDENTIAL ESTATES PTY LTD
ACN 054 228 929 in accordance with Section 127
of the Corporations Act 2001 in the presence of:

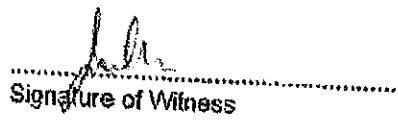


Director
CAMERON HOLT



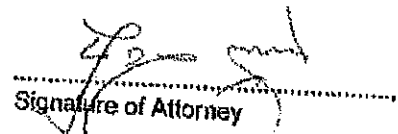
Company Secretary
RICHARD AMOS

Executed by ANZ FIDUCIARY SERVICES PTY LTD
ACN 100 709 493 by its attorney pursuant to
Power of Attorney registered Book 4711 No. 227
and the Attorney declares that the Attorney has not
received any notice of revocation of such Power of
Attorney.


Signature of Witness

Jonathan Castellanos
Name of Witness

LEVEL 3A,
833 COLLINS STREET
DOCKLANDS VIC 3008
Address of Witness


Signature of Attorney

GEHAN FERNANDO
Name of Attorney

L3 833 COLLINS STREET
DOCKLANDS VIC 3008
Address of Attorney

If space insufficient use additional annexure sheet

Surveyor's Reference: 190433(33)-DP-001-F

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 1 of 9 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246288 and Lot 3268 DP1246545 and Easements in Lot 1 DP716824 and Lot 300 DP593864 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

Full Name and Address of
The Owner of the land:

AVID Residential Estates Pty Limited
ACN 054 228 929
Level 35, Suncorp Place
258 George Street
SYDNEY NSW 2000

Full Name and Address of
The Mortgagee of the land:

ANZ Fiduciary Services Pty Limited
ACN 100 709 493
Level 3,733 Collins Street
DOCKLANDS VIC 3008

PART 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Easement to Drain Water 1.5 wide (A)	3302 3303 3304 3305 3306 3307 3314 3315 3316 3317 3318 3319 3320 3329 3330 3331 3332 3333 3334 3335	3303 to 3311 inclusive. 3304 to 3311 inclusive. 3305 to 3311 inclusive. 3306 to 3311 inclusive. 3307 to 3311 inclusive. 3308 to 3311 inclusive. 3315 to 3321 inclusive. 3316 to 3321 inclusive. 3317 to 3321 inclusive. 3318 to 3321 inclusive. 3319, 3320, 3321. 3320, 3321. 3321 3330 to 3337 inclusive. 3331 to 3337 inclusive. 3332 to 3337 inclusive. 3333 to 3337 inclusive. 3334 to 3337 inclusive. 3335, 3336, 3337. 3336, 3337.

Handwritten signature and initials in the bottom right corner of the page.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 2 of 8 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246268 and Lot 3268 DP1246545 and Easements in Lot 1 DP716824 and Lot 300 DP593864 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

		3336 3340 3341 3352 3355 3358 3359	3337. 3338, 3339. 3338, 3339, 3340. 3327 to 3337 inclusive. 3356. 3357. 3357, 3358.
2	Easement to Drain Water 2.5 wide (B)	3362	3312 to 3321 inclusive.
3	Easement to Drain Water 2.5 wide (C)	3301 3309 3310 3312 3327 3338 3353 3362	3302 to 3311 inclusive. 3310, 3311. 3311. 3313 to 3321 inclusive. 3328 to 3337 inclusive. 3339. 3354, 3355, 3356. 3301 to 3311 inclusive.
4	Easement to Drain Water variable width (D)	3308 3313 3328 3354 3360	3309, 3310, 3311 3314 to 3321 inclusive. 3329 to 3337 inclusive. 3355, 3356. 3357, 3358, 3359.
5	Easement for Drainage of Water 17 wide and variable width (E)	3362 1/716824	Maitland City Council
6	Positive Covenant	Part Lot 3362 designated as (F) in the Plan	Maitland City Council
7	Positive Covenant	Part Lot 3362 and Part 1/716824 designated as (G) in the Plan	Maitland City Council
8	Easement for Drainage of Water 17 wide and variable (H)	3362 1/716824	Maitland City Council

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 3 of 9 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246288 and Lot 3268 DP1246645 and Easements in Lot 1 DP716824 and Lot 300 DP593864 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

9	Easement for Drainage of Water 4 wide (I)	3362	Maitland City Council
10	Easement for Drainage of Water 3, 4.2, 17 wide and variable (J)	3362 300/593864	Maitland City Council
11	Easement for Footings and Support of Retaining Wall 0.9 wide (K)	3322 3323 3324 3325 3326 3340 3342 3343 3344 3345 3346 3347 3348 3349 3350 3351 3352 3362	3321. 3320. 3319. 3318. 3317. 3338, 3339. 3337, 3338. 3336, 3337. 3335, 3336. 3334, 3335. 3333, 3334. 3332, 3333. 3331, 3332. 3330, 3331. 3329, 3330. 3328. 3327. 3308 to 3316 inclusive.
12	Easement for Footings and Support of Retaining Wall 0.9 wide (L)	3362	3353 to 3356 inclusive.
13	Easement for Footings and Support of Retaining Wall 0.9 wide (M)	3362	3357 to 3360 inclusive.
14	Easement for Drainage of Water variable width (N)	3362 300/593864 1/716824	Maitland City Council
15	Positive Covenant	Part 3362, part 300/593864, part 1/716824, all designated as (O) in the Plan	Maitland City Council

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 4 of 9 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246288 and Lot 3268 DP1246545 and Easements in Lot 1 DP716824 and Lot 300 DP593864 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

16	Restriction on the Use of Land	Each lot except 3361,3362,3363 and 3364.	Every other lot except 3361, 3362, 3363 and 3364.
17	Positive Covenant	Part 3362 designated as (G1) in the Plan	Maitland City Council

PART 1A (Release)

Number of item shown in the Intention panel on the plan	Identity of easement or profit à prendre to be released and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Easement for Drainage of Water variable width (FC) (DP1246288)	3099/1246288	Maitland City Council
2	Easement for Drainage of Water variable width (FD) (DP1246288)	3099/1246288	Maitland City Council

PART 2 (Terms)

- Terms of Easement to drain water referred to and numbered 1, 2, 3 and 4 in the Plan**

An Easement to drain water in terms set out in Part 3 of Schedule 8 of the Conveyancing Act, 1919 (as amended) is created.
- Terms of Easements for Drainage of Water referred to and numbered 5, 6, 9, 10 and 14 in the Plan**

An Easement for drainage of water in terms set out in Part 7 of Schedule 4a of the Conveyancing Act, 1919 (as amended) is created.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 5 of 9 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246288 and Lot 3268 DP1246545 and Easements in Lot 1 DP716824 and Lot 300 DP593864 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

3. Terms of Positive Covenant referred to and numbered 6, 7 and 17 in the Plan

The burdened land shall be managed as an inner protection area (IPA) as outlined in section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and NSW Rural Fire Service's document Standards for asset protection zones.

4. Terms of Easement for Footings and Support of Retaining Wall numbered 11, 12 and 13 in the Plan

4.1 In this Easement, the following terms mean:

Footings means the footings of the Retaining Wall

Retaining Wall means the retaining wall located on the Lot Benefited.

4.2 The owner of Lot Benefited:

- (a) may insist that any Footings that are located within the Easement Site on the Lot Burdened remain;
- (b) must keep the Footings in good repair and safe condition; and
- (c) may do anything reasonably necessary for that purpose including:
 - (i) entering the Lot Burdened;
 - (ii) taking anything onto the Lot Burdened; and
 - (iii) carrying out work.

4.3 The Owner of the Lot Burdened grants to the Owner of the Lot Benefited a right of support over that part of the Lot Burdened containing the Easement Site for the purpose of supporting the Retaining Wall.

4.4 The Owner of the Lot Burdened must:

- (a) not do anything which will detract from the support of the Retaining Wall, including excavation within the site of the easement; and
- (b) allow the Grantee to enter that part of the Lot Burdened as is reasonably required and to remain there for any reasonable time for the purpose of carrying out any work necessary to ensure the support of the Retaining Wall and the Lot Benefited is maintained.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 6 of 9 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246288 and Lot 3268 DP1246545 and Easements in Lot 1 DP716824 and Lot 300 DP593864 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

4.5 The Owner of the Lot Benefited:

- (a) must keep the Retaining Wall in good repair and safe condition; and
- (b) may do anything reasonably necessary for that purpose including:
 - (i) entering the Lot Burdened;
 - (ii) taking anything onto the Lot Burdened; and
 - (iii) carrying out work

4.6 The Owner of the Lot Benefited, in exercising its rights under this Easement must:

- (a) ensure all work is done properly;
- (b) cause as little inconvenience as is practicable to the Owner and any occupier of the Lot Burdened;
- (c) restore the Lot Burdened as nearly as practicable to its former condition; and
- (d) make good any collateral damage.

4.7 Except when urgent work is required, the Owner of the Lot Benefited must:

- (a) give the Owner of the Lot Burdened reasonable notice of intention to enter the Lot Burdened; and
- (b) only enter the Lot Burdened during times reasonably agreed with the Owner of the Lot Burdened.

5 Terms of Positive Covenant numbered 15 in the Plan

The owner of the burdened lot shall:

- a) engage a suitably qualified contractor to maintain the detention/water quality system in a fully functioning capacity until the lot is dedicated to council as drainage reserve.
- b) hold a minimum of \$10 million public liability insurance for the burdened lot until it is dedicated to council as drainage reserve.
- c) When the land is to be dedicated as drainage reserve, simultaneously release from the title all drainage easements in favour of council, this positive covenant and dedicate the land required for drainage reserve to council as Drainage Reserve.

INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 7 of 9 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246288 and Lot 3268 DP1246545 and Easements in Lot 1 DP716824 and Lot 300 DP593864 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

- 6 Terms of Restrictions on the use of Land referred to and numbered 16 in the Plan
- 6.1 Building
- (a) No existing dwelling house shall be partly or wholly moved to, placed upon, re-erected upon, reconstructed on or permitted to remain on any lot burdened.
 - (b) No buildings to be constructed consisting of dual occupancies, duplex, townhouse or villa.
- 6.2 Fencing
- (a) No fence will be erected or permitted to remain erected on any lot burdened to divide it from any adjoining land owned by Avid Residential Estates Pty Limited without the prior written consent of Avid Residential Estates Pty Limited but such consent will not be withheld if the fence is erected without expense to Avid Residential Estates Pty Limited.
 - (b) No fence constructed of metal sheeting shall be erected or permitted to remain on any lot burdened.

Name of the authority whose consent is required to release, vary or modify the Easements numbered 1, 2, 3, 4, 11, 12 and 13 in the Plan is the lots burdened and benefitted, only with the consent of MAITLAND CITY COUNCIL.

Name of the authority empowered to release, vary or modify the Easements and Positive Covenants numbered 5, 6, 7, 8, 9, 10, 14, 15 and 17 in the Plan is MAITLAND CITY COUNCIL.

Name of the company empowered to release, vary or modify the restrictions numbered 16 in the above mentioned plan is AVID RESIDENTIAL ESTATES PTY LIMITED until 12 months after it is no longer the registered proprietor of any land burdened by this restriction and thereafter the persons having the right to release, vary or modify this restriction is the registered proprietors for the time being of not less than four (4) of the lots benefitted by this restriction.



INSTRUMENT SETTING OUT TERMS OF EASEMENTS OR PROFITS À PRENDRE INTENDED TO BE CREATED OR RELEASED AND OF RESTRICTIONS ON THE USE OF LAND OR POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919.

Lengths are in metres

(Sheet 8 of 9 Sheets)

Plan:

DP1260060

Plan of Subdivision of Lot 3099 DP1246288 and Lot 3268 DP1246545 and Easements in Lot 1 DP716824 and Lot 300 DP593884 covered by Council Subdivision Certificate No.182020 dated 12 day May 2021.

Executed for MAITLAND CITY COUNCIL
by its authorised delegate pursuant to
s.377 of the Local Government Act 1993.

K Cousins

.....
Signature of Authorised Delegate

.....
KRISTY COUSINS

.....
Name of Authorised Delegate (print)

AUTHORISED OFFICER
Electronic signature of me, Kristy
Cousins affixed by me or at my
direction on 12 May 2021

I certify that I am an eligible witness
and that the delegate signed in my
presence.

K Schroder

.....
Signature of Witness

.....
KAREN SCHRODER

.....
Name of Witness (print)

285 High Street, MAITLAND NSW 2320

WITNESS
Electronic signature of me, Karen
Schroder affixed by me or at my
direction on 12 May 2021

RA
[Signature]
F.

NO. 280 BOOK 1959 CONVEYANCES.

Ray Houch Miles Susan Day S/- duly attested G.S. 28, 43, A.

THIS DEED made the First day of December One thousand nine hundred and forty three between ROBERT FREDERICK PASTER of East Brisbane in the State of New South Wales, Executor (Surviving Executor of the Will of Mary Eleanor Wilks late of New South Wales, Deceased) of the one part and ARTHUR GUYL BARTON of New South Wales, Executor of the other part WITNESSETH that the said Mary Eleanor Wilks late at the date of her death hereinafter mentioned owned in fee simple of an estate well and sufficiently entitled to the lands and premises hereinafter described AND WHEREAS the said Mary Eleanor Wilks duly and lawfully executed her last Will and Testament in writing dated the twentieth day of October One thousand nine hundred and thirty seven whereby she directed the payment of all her just debts funeral and testamentary expenses as soon as conveniently might be after her decease and appointed James John Wilks and Robert Frederick Paster (herein called Frederick Paster) Executors thereof and gave devised and bequeathed all her real estate to the said Frederick Paster upon trust for James John Wilks for his life subject to his paying the interest due to Elizabeth Wilks and all rates and taxes and on the after his decease then trust to sell all in and convey the same into money and to divide the proceeds of such sale equally to and amongst the said Elizabeth Wilks and Arthur Guyll Barton at the date of her death in equal shares as tenants in common AND WHEREAS the said Mary Eleanor Wilks died on the twenty second day of October One thousand nine hundred and thirty seven leaving behind her and her estate her said Will heretofore recited and the executed day of December One thousand nine hundred and forty three James John Wilks by the Supreme Court of the State of New South Wales in the Probate Jurisdiction to the said James John Wilks and Frederick Paster the Executors named therein (the said Robert Frederick Paster being nominated in the said Probate as Frederick Paster) AND WHEREAS the said James John Wilks died on the twentieth day of September One thousand nine hundred and thirty nine AND WHEREAS James John Wilks (the said James John Wilks being nominated in the Will of the said Mary Eleanor Wilks deceased) died on the twelfth day of February One thousand nine hundred and forty two AND WHEREAS the said Robert Frederick Paster as such surviving Executor as aforesaid for the purpose of administration in a deed with the said Arthur Guyll Barton for the sale to him of the lands and premises hereinafter described for the sum of FIVE THOUSAND AND SEVEN HUNDRED AND SEVENTY FIVE POUNDS paid by the said Arthur Guyll Barton to the said Robert Frederick Paster as such surviving Executor as aforesaid (the receipt whereof is hereby acknowledged) the said Robert Frederick Paster as such surviving Executor as aforesaid and in virtue of the powers conferred on him by the Will aforesaid and his administration Act 1904 No. 2007-1908 and of every other power his heretofore enabling him to do so has duly sold and conveyed unto the said Arthur Guyll Barton in fee simple ALL THAT piece or parcel of land containing forty two acres twenty six perches being part of Lot 52 of Alfred Street Estate First subdivision of Brisbane-Black State map 1000 and being part of three hundred acres granted to J. Terry Hughson Shire of Brisbane

A. G. Barton

101
11/11/46
L.S.
L.S.

In the Parish of Anwick County of Northumberland County of New South Wales containing at the intersection of the Western boundary of J. Terry Hughes grant of three hundred acres of land with a South Westerly boundary of the Herpath to Hilliers Forest Road being a point bearing North Westerly and distant four thousand six hundred and forty six lines and eight tenths of a link from its South Westerly corner and bounded thence by a North Westerly boundary of the Herpath to Hilliers Forest Road of length one hundred and one degrees forty six minutes for one thousand one hundred and twenty three lines and four tenths of a link to from SA thence by the South Westerly boundary of that Road one hundred and sixty degrees twenty two minutes for three thousand four hundred and seventy one lines and four tenths of a link to the Southerly boundary of Kristanofelds Estate thence by part of that boundary one hundred and seventy degrees twenty two minutes three hundred and fifty three lines and two tenths of a link to the Herpath to Regional Services Road thence by West Easterly boundaries of that Road being land respectively three hundred and three degrees twenty seven minutes for one thousand five hundred and fifty two lines and two tenths of a link and three hundred and thirty degrees twenty seven minutes for one thousand two hundred and fifty seven lines and nine tenths of a link to the Westerly boundary of J. Terry Hughes three hundred acres grant aforesaid and thence by part of that boundary three hundred and sixty degrees twenty three minutes for one thousand five hundred and fifty three lines to the point of commencement to the said several dimensions a line more or less SURVEY INSTRUMENTED to and with the benefit of all ways and rights of way and all claims and rights of advantage to which aforesaid and to maintainable by right of user grant or otherwise through from or to the lands hereby conveyed or any part thereof AND RESERVING to Alfred Ernest Bates his heirs and assigns all coal and other minerals and all metals lying and being in and under the said land and hereditaments and liberties described with liberty for the said Alfred Ernest Bates his heirs executors administrators and assigns from the adjoining lands and hereditaments or otherwise to go for mine and carry away all such coal and other minerals and all metals AND RESERVING also to the said Alfred Ernest Bates his heirs executors administrators and assigns the right to work any other lands through the lands hereby conveyed and to convey all coal and other minerals gotten from such other lands through the lands hereby conveyed but not vice the right to enter upon or injure any portion of the surface of the land hereby conveyed or any buildings thereon for the purposes aforesaid or any of them.

IN WITNESS whereof the said ROBERT FREEMAN and ROBERT BATES haveunto subscribed his name and affixed his seal:

SIGNED SEALED AND DELIVERED by
ROBERT FREEMAN ROBERT BATES in the presence of: R.F. ROBERT

A.G. JOHNS J.P.
Shroton
Edith Ashley Carruthers of Sydney Clerk to the Central Banking Company of Sydney Limited being duly sworn take oath and say: "The writing contained above and on the preceding page has been compared by me with the original conveyance and is a true copy thereof."
Witness my hand and seal the ninth day of March 1945 before me
Deputy Registrar

Received into the Registration of Deeds Office at Sydney the ninth day of March 1945 at 11:15 AM
Registrar and Clerk in the Forenoon from the said Edith Ashley Carruthers
Deputy Registrar

Certificate No.: PC/2021/1917

Certificate Date: 17/06/2021

Fee Paid: \$53.00

Receipt No.: 1031556

Your Reference: 59383

SECTION 10.7 PLANNING CERTIFICATE

Environmental Planning and Assessment Act, 1979 as amended

APPLICANT:	Infotrack Property Services Pty Ltd ecertificates@infotrack.com.au
PROPERTY DESCRIPTION:	218 Settlers Boulevard CHISHOLM NSW 2322
PARCEL NUMBER:	101472
LEGAL DESCRIPTION:	Lot 3328 DP 1260060

IMPORTANT: Please read this Certificate carefully.

This Certificate contains important information about the land described above.

Please check for any item, which could be inconsistent with the proposed use or development of the land. If there is anything you do not understand, please contact Council by phoning (02) 4934 9700, or personally at Council's Administration Building at 285-287 High Street, Maitland.

The information provided in this Certificate relates only to the land described above. If you require information about adjoining or nearby land, or about the Council's development policies or codes for the general area, contact Council's Planning & Environment Department.

All information provided is correct as at the date of issue of this Certificate, however it is possible for changes to occur at any time after the issue of this Certificate. We recommend that you only rely upon a very recent Certificate.

The following responses are based on the Council's records and/or information from sources outside the Council. The responses are provided with all due care and in good faith, however the Council cannot accept responsibility for any omission or inaccuracy arising from information outside the control of the Council.

Furthermore, while this Certificate indicates the general effect of the zoning of the abovementioned land, it is suggested that the applicable planning instruments be further investigated to determine any additional requirements.

Copies of Maitland City Council's Local Environmental Planning Instrument, Development Control Plans and Policies are available from Council's [website](#).

PART 1: MATTERS PROVIDED PURSUANT TO SECTION 10.7 (2)

1. Local Environmental Plan (LEP)

Maitland LEP 2011, published 16 December 2011, applies to the land.

Exhibited draft Local Environmental Plans

No draft local Environmental Plans that have been on public exhibition under the Act are applicable to the land.

Development Control Plan prepared by Council

Maitland Development Control Plan 2011 applies to the land.

Development Control Plan prepared by the Director General

The Council has not been notified of any Development Control Plan applying to the land that has been prepared by the Director-General under section 51A of the Act.

State Environmental Planning Policies

The Minister for Planning has notified that the following State Environmental Planning Policies (SEPPs) shall be specified on Certificates under Section 10.7 of the Environmental Planning and Assessment Act, 1979.

The land is affected by the following State Environmental Planning Policies:

- SEPP21 Caravan Parks
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (State and Regional Development) 2011
- SEPP33 Hazardous and Offensive Development
- SEPP36 Manufactured Home Estates
- SEPP (Koala Habitat Protection) 2019
- SEPP50 Canal Estate Development
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP55 Remediation of Land
- SEPP Affordable Rental Housing 2009
- SEPP Building Sustainability Index: BASIX 2004
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Infrastructure) 2007
- SEPP64 Advertising and Signage
- SEPP Primary Production and Rural Development 2019
- SEPP65 Design Quality of Residential Apartment Development
- SEPP70 Affordable Housing (Revised Schemes)
- SEPP (Concurrences and Consents) 2018
- SEPP (Educational Establishments and Child Care Facilities) 2017
- SEPP (Coastal Management) 2018

Draft State Environmental Planning Policies

The following draft State Environmental Planning Policy(s) applying to the land is, or has been, the subject of community consultation or on public exhibition under the Act:

Housekeeping Amendment to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The proposed amendments to this SEPP are housekeeping amendment to the Codes SEPP to simplify and improve the policy, clarify definitions and standards, and address other minor technical matters raised. The proposed housekeeping amendment to the Codes SEPP will simplify and improve the policy, clarify definitions and standards, and address other minor technical matters.

2. Zoning and land use under relevant LEPs

Maitland LEP 2011, published 16 December 2011, identifies the zone applying to the land as:

R1 General Residential

The following development information gives the objectives of the zone, the description of the zone and identifies development allowed or prohibited in each zone. Development consent where required, must be obtained from the Council.

R1 General Residential

a) Purpose/Objective

- To provide for the housing needs of the community
- To provide for a variety of housing types and densities
- To enable other land uses that provide facilities or services to meet the day to day needs of residents

b) Permitted with Consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Group homes; Home-based child care; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Tank-based aquaculture; Any other development not specified in item 2 or 4

c) Permitted without Consent

Home occupations

d) Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial

premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies.

e) Land dimensions to permit the erection of a dwelling house on the land

For the land zoned R1 General Residential the Maitland LEP 2011 does not contain a development standard specifying the land dimensions required to permit the erection of a dwelling house on the land.

f) Critical Habitat

No Local Environmental Plan or draft Local Environmental Plan identifies the land as including or comprising critical habitat.

g) Conservation Area

The land IS NOT in a Heritage Conservation Area.

h) Item of Environmental Heritage

The land does NOT contain an item of Environmental Heritage.

3. Complying Development

Complying development under the **Housing Code** may be carried out on the land.

Complying development under the **Low Rise Medium Density Housing Code** may be carried out on the land. Complying development under the **Greenfield Housing Code** may be carried out on the land, but only if the land is identified on the *Greenfield Housing Code Area Map* issued by the NSW Department of Planning and Environment.

Complying development under the **Rural Housing Code** may not be carried out on the land as it is not within an applicable zone.

Complying development under the **Housing Alterations Code** may be carried out on the land.

Complying development under the **General Development Code** may be carried out on the land.

Complying development under the **Commercial and Industrial Alterations Code** may be carried out on the land.

Complying development under the **Commercial and Industrial (New Buildings and Additions) Code** may not be carried out on the land as it is not within an

applicable zone.

Complying development under the **Subdivisions Code** may be carried out on the land.

Complying development under the **Demolition Code** may be carried out on the land.

Complying development under the **Fire Safety Code** may be carried out on the land.

Complying development under the **Container Recycling Facilities Code** may not be carried out on the land.

Note: Despite the above provisions, if only part of a lot is subject to an exclusion or exemption under Clause 1.17A or Clause 1.19 of State Environmental Planning Policy (Exempt and Complying Development Codes) Amendment (Commercial and Industrial Development and Other Matters) 2013, complying development may be carried out on that part of the lot that is not affected by the exclusion or exemption.

4B. Annual charges under Local Government Act 1993 for coastal protection services that relate to existing coastal protection works

The owner (or any previous owner) of the land has NOT consented in writing to the land being subject to annual charges under section 496B of the Local Government Act 1993 for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act).

5. Coal Mine Subsidence Compensation Act 2017

The land has NOT been proclaimed to be within a Mine Subsidence District under the meaning of section 20 of the Coal Mine Subsidence Compensation Act 2017.

6. Road widening and road realignment

- a) The land is NOT affected by road widening under Division 2 of Part 3 of the Roads Act 1993.
- b) The land is NOT affected by any environmental planning instrument
- c) The land is NOT affected by any road-widening or realignment under any resolution of the Council

The information above relates to Council's road proposals only. Other authorities, including Roads and Maritime Services, may have proposals, which have not been set out.

7. Council and other public authority policies on hazard risk restrictions

All land within the Maitland Local Government Area has the potential to contain acid sulfate soils. Clause 7.1 of the Maitland Local Environmental Plan 2011 generally applies. Development consent is required where works described in the Table to this clause are proposed on land shown on the Maitland LEP 2011 Acid Sulfate Soils Map as being of the class specified for those works.

The Council has adopted a Contaminated Lands Policy to provide a framework to appropriately manage land contamination risk through the land use planning process. This Policy seeks to ensure that changes in land use will not increase the risk to human health or the environment. The Policy applies to all land in the Maitland Local Government Area.

7A. Flood Related Development Controls

Development on this land or part of this land for the purposes of dwelling houses, attached dwellings, dual occupancies, multi dwelling housing or residential flat buildings (not including development for the purposes of group homes or seniors housing) is NOT subject to flood related development controls contained within clause 7.3 of the Maitland LEP 2011 and s.B3 of the Maitland DCP 2011.

Development on this land or part of this land for any other purpose is NOT subject to flood related development controls contained within clause 7.3 of the Maitland LEP 2011 and s.B3 of the Maitland DCP 2011.

Information given in relation to flooding is based upon Council's adopted 1:100 ARI (Average Recurrent Interval) flood event.

The Maitland LEP 2011 identifies the flood planning level (FPL) as the level of a 1:100 ARI flood event plus 0.5m freeboard.

8. Land Reserved for Acquisition

No environmental planning instrument, deemed environmental planning instrument or draft environmental planning instrument applying to the land provides for the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

9. Contribution Plans

The following contribution plan(s) apply to the land:

- Maitland S94A Levy Contributions Plan 2006
- Thornton North S94 Contribution Plan 2008
- Maitland City Wide Section 94 Contributions Plan 2016
-

Contributions Plans may be viewed on Council's website or inspected and purchased at Council's Customer Service Centre.

9A. Biodiversity Certified Land

The land is not biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016.

10. Biodiversity Stewardship Sites

The Council is not aware if the land is a biodiversity stewardship site under a biodiversity stewardship agreement under part 5 of the *Biodiversity Conservation Act 2016*.

10A. Native Vegetation clearing set asides

The Council is not aware if the land contains a set aside area under 60ZC of the *Local Land Services Act 2013*.

11. Bushfire Prone Land

The land is mapped as bushfire prone land and as such restrictions may apply to new development on this land.

12. Property vegetation plans

The Council has not received any notification from Hunter Local Land Services that this land is affected by a property vegetation plan under Part 4 of the Native Vegetation Act 2003 (and that continues in force).

13. Order under Trees (Disputes between Neighbours) Act 2006

Council has NOT received notification from the Land and Environment Court of NSW that the land is affected by an Order under Trees – (Disputes Between Neighbours) Act 2006.

14. Directions under Part 3A

There is NO direction by the Minister under Section 75P(2)(c1) of the Act that a provision of an environmental planning instrument prohibiting or restricting the carrying out of a project or a stage of a project on the land under Part 4 (other than a project of a class prescribed by the regulations) of the Act does not have effect.

15. Site Compatibility Certificate and Conditions for Seniors Housing**a) Site Compatibility Certificate**

Council is unaware of whether a current Site Compatibility Certificate issued under Clause 25 of the State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 has been issued for the land.

b) Conditions of Development Consent since 11 October 2007

No development consent has been granted for the development permitted under State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 after 11 October 2007.

16. Site compatibility certificates for infrastructure, schools or TAFE establishments

Council is unaware of whether a valid Site Compatibility Certificate has been issued under clause 19 of State Environmental Planning Policy (Infrastructure) 2007 for the land.

17. Site compatibility certificates and conditions for affordable rental housing

Council is unaware if a Site Compatibility Certificate (Affordable Rental Housing) has been issued in accordance with State Environmental Planning Policy (Affordable Rental Housing) 2009.

18. Paper subdivision information

There is no development plan that applies to the:

- 1) Land or that is proposed to be subject to a consent ballot
- 2) There is no subdivision order that applies to the land.

19. Site verification certificates

Council is not aware of any current site verification certificate in respect of the land.

20. Loose-fill asbestos insulation

There are no premises on the subject land listed on the register.

21. Affected building notices and building product rectification orders

The Council is NOT aware of any affected building notice which is in force in respect of the land.

The Council is NOT aware of any building product rectification order which is in force in respect of the land and that has not been fully complied with.

The Council is NOT aware of any notice of intention to make a building product rectification order being given in respect of the land and that is outstanding.

Note. The following matters are prescribed by section 59(2) of the Contaminated Land Management Act 1997 as additional matters to be specified in a planning certificate.

Contaminated Land

- a) The land to which this certificate relates is NOT significantly contaminated land within the meaning of the Contaminated Land Management Act 1997.
- b) The land to which this certificate relates is NOT subject to a management order within the meaning of the Contaminated Land Management Act 1997.
- c) The land to which this certificate relates is NOT the subject of an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997.
- d) The land to which this certificate relates is NOT the subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997.
- e) Council has NOT been provided with a site audit statement, within the meaning of the Contaminated Land Management Act 1997, for the land to which this Certificate relates.

David Evans
General Manager



HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

SERVICE LOCATION PLAN

Enquiries: 1300 657 657

APPLICANT'S DETAILS

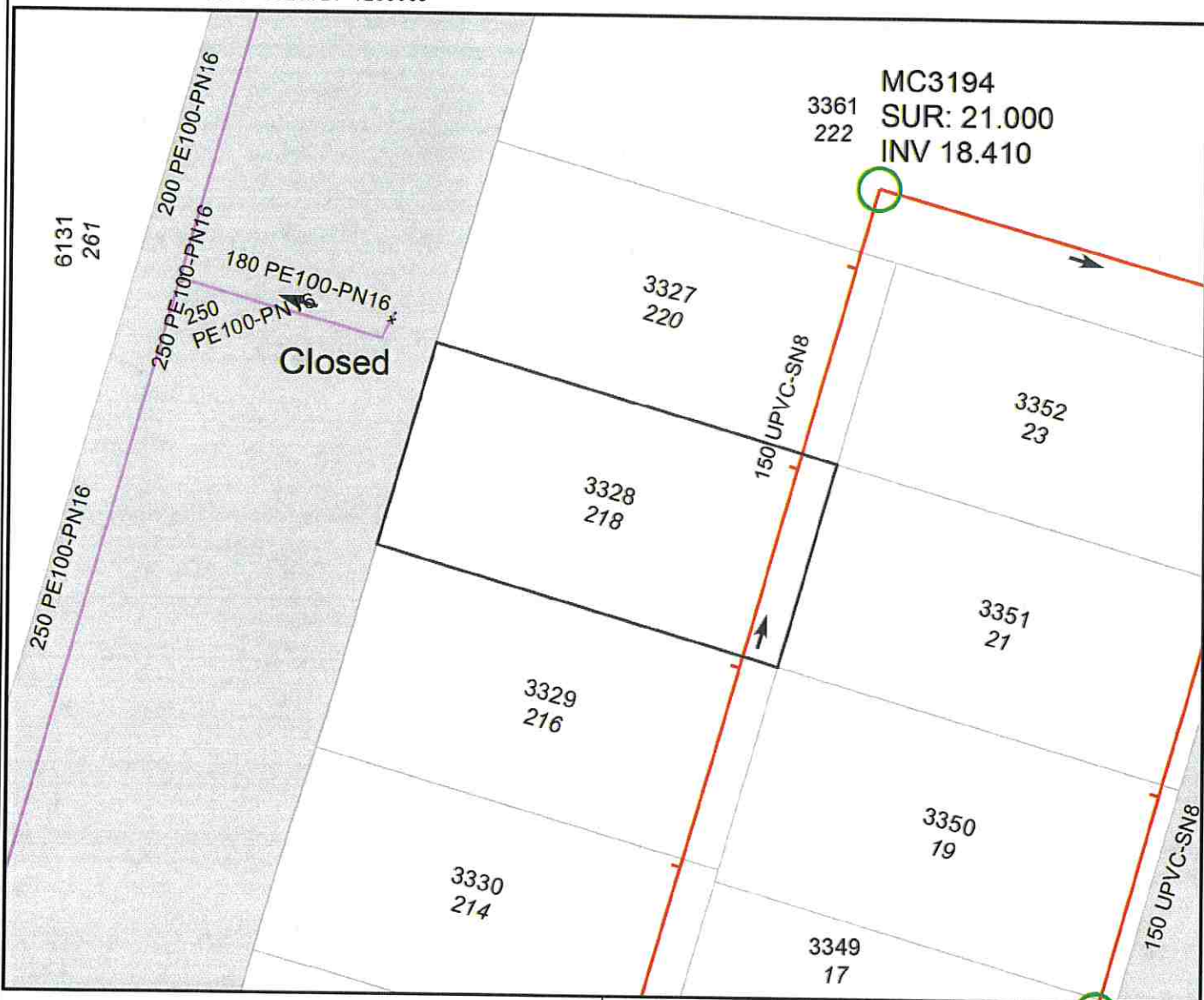


InfoTrack
218 SETTLERS
CHISHOLM NSW

APPLICATION NO.: 1424892
APPLICANT REF: M 59383
RATEABLE PREMISE NO.: 9999914795

PROPERTY ADDRESS: 218 SETTLERS BVD CHISHOLM 2322

LOT/SECTION/DP:SP: 3328//DP 1260060



SEWER POSITION APPROXIMATE ONLY.
SUBJECT PROPERTY BOLDED.
ALL MEASUREMENTS ARE METRIC.

IF A SEWERMAIN IS LAID WITHIN THE BOUNDARIES OF THE LOT, SPECIAL REQUIREMENTS FOR THE PROTECTION OF THE SEWERMAIN APPLY IF DEVELOPMENT IS UNDERTAKEN. IN THESE CASES, IT IS RECOMMENDED THAT YOU SEEK ADVICE ON THE SPECIAL REQUIREMENTS PRIOR TO PURCHASE. PHONE 1300 657 657, FOR MORE INFORMATION.

IMPORTANT:
IF THIS PLAN INDICATES A SEWER CONNECTION IS AVAILABLE OR PROPOSED FOR THE SUBJECT PROPERTY, IT IS THE INTENDING OWNERS RESPONSIBILITY TO DETERMINE WHETHER IT IS PRACTICABLE TO DISCHARGE WASTEWATER FROM ALL PARTS OF THE PROPERTY TO THAT CONNECTION.

ANY INFORMATION ON THIS PLAN MAY NOT BE UP TO DATE AND THE CORPORATION ACCEPTS NO RESPONSIBILITY FOR ITS ACCURACY.

Date: 17/06/2021

Scale at A4: 1:500

CADASTRAL DATA © LPI OF NSW
CONTOUR DATA © AAMHatch
© Department of Planning

SEWER/WATER/RECYCLED WATER
UTILITY DATA
© HUNTER WATER CORPORATION

FINANCE CLAUSE (SPECIAL CONDITION)

WARNING:

Vendors should seek advice from their own solicitor/conveyancer concerning the use of this clause.

Inclusion of this "subject to finance" clause means that the purchaser can bring the contract to an end, and obtain a refund of most their deposit, if finance is not obtained.

If you are relying on the sale of your property to be able to settle the purchase of another property, or if you need to complete the sale of your property by a specific deadline, this clause should not be used without careful consideration and appropriate advice.

SUBJECT TO FINANCE

- (a) This contract is conditional upon the purchaser obtaining approval in writing of finance for the purchase of the property:
- (i) in accordance with this clause; and
 - (ii) by the date specified and as otherwise particularised in the schedule to this clause (the **Schedule**).
- (b) This clause is for the benefit of the purchaser, who may waive the benefit of it by *servicing* notice to that effect at any time before completion, rescission or termination of this contract.
- (c) The purchaser warrants that, not later than the contract date, the purchaser obtained finance pre-approval in writing for finance for an amount adequate to enable the purchaser to complete the purchase of the property and to pay all applicable duties, costs and fees.
- (d) The purchaser must at the purchaser's expense:
- (i) apply for finance in accordance with the Schedule within three business days after the contract date;
 - (ii) serve notice confirming compliance with paragraph (d)(i) not later than one business day after the application for finance is lodged;
 - (iii) diligently pursue the application for finance and pay all fees, supply all particulars, certificates and valuations, and promptly do all other things as may reasonably be required for the purpose of the application;
 - (iv) inform the vendor regarding the progress of the purchaser's application for finance whenever reasonably requested to do so by or on behalf of the vendor; and
 - (v) within one business day after receipt of notice from the proposed lender approving or refusing the application for finance, *serve* notice informing the vendor of the outcome of the application for finance.
- (e) If:
- (i) notice under paragraph (d)(v) informing the vendor of approval in writing of the purchaser's application for finance, or
 - (ii) waiver by the purchaser of the benefit of this clause under paragraph (b), has not been *served* by 5.00pm on the date specified in the Schedule (the time for service by that date and time being of the essence of this contract);
 - (iii) the vendor can *rescind*; and
 - (iv) the purchaser can *rescind*, but only if the purchaser:
 - (1) is not in breach of the warranty in paragraph (c) of this clause, and
 - (2) has complied with the purchaser's obligations under paragraph (d) of this clause, provided that if the purchaser *serves* notice under paragraph (d)(v) informing the vendor of approval in writing of the purchaser's application for finance before *service* of notice of *rescission* by either party, both parties' rights to *rescind* lapse at the time of that *service* under paragraph (d)(v).
- (f) If this contract is *rescinded* under this clause:
- (i) the purchaser will forfeit to the vendor the sum equivalent to 0.25% of the purchase price; the vendor is entitled to recover the amount forfeited from any amount paid by the purchaser as deposit under this contract, and the purchaser is entitled to a refund of any balance of that deposit; and
 - (ii) subject to paragraph (f)(i), clause 19 applies.

SCHEDULE

Lender: _____ [specify]
Amount of Loan: _____ [specify]

Last date for receipt of approval 10/15/20 (delete whichever does not apply)
_____ business days after the contract date

FINANCE CLAUSE (SPECIAL CONDITION)

WARNING:

Vendors should seek advice from their own solicitor/conveyancer concerning the use of this clause.

Inclusion of this "subject to finance" clause means that the purchaser can bring the contract to an end, and obtain a refund of most their deposit, if finance is not obtained.

If you are relying on the sale of your property to be able to settle the purchase of another property, or if you need to complete the sale of your property by a specific deadline, this clause should not be used without careful consideration and appropriate advice.

SUBJECT TO FINANCE

- (a) This contract is conditional upon the purchaser obtaining approval in writing of finance for the purchase of the property:
- (i) in accordance with this clause; and
 - (ii) by the date specified and as otherwise particularised in the schedule to this clause (the **Schedule**).
- (b) This clause is for the benefit of the purchaser, who may waive the benefit of it by *servicing* notice to that effect at any time before completion, rescission or termination of this contract.
- (c) The purchaser warrants that, not later than the contract date, the purchaser obtained finance pre-approval in writing for finance for an amount adequate to enable the purchaser to complete the purchase of the property and to pay all applicable duties, costs and fees.
- (d) The purchaser must at the purchaser's expense:
- (i) apply for finance in accordance with the Schedule within three business days after the contract date;
 - (ii) serve notice confirming compliance with paragraph (d)(i) not later than one business day after the application for finance is lodged;
 - (iii) diligently pursue the application for finance and pay all fees, supply all particulars, certificates and valuations, and promptly do all other things as may reasonably be required for the purpose of the application;
 - (iv) inform the vendor regarding the progress of the purchaser's application for finance whenever reasonably requested to do so by or on behalf of the vendor; and
 - (v) within one business day after receipt of notice from the proposed lender approving or refusing the application for finance, *serve* notice informing the vendor of the outcome of the application for finance.
- (e) If:
- (i) notice under paragraph (d)(v) informing the vendor of approval in writing of the purchaser's application for finance, or
 - (ii) waiver by the purchaser of the benefit of this clause under paragraph (b), has not been *served* by 5.00pm on the date specified in the Schedule (the time for service by that date and time being of the essence of this contract);
 - (iii) the vendor can *rescind*; and
 - (iv) the purchaser can *rescind*, but only if the purchaser:
 - (1) is not in breach of the warranty in paragraph (c) of this clause, and
 - (2) has complied with the purchaser's obligations under paragraph (d) of this clause, provided that if the purchaser *serves* notice under paragraph (d)(v) informing the vendor of approval in writing of the purchaser's application for finance before *service* of notice of *rescission* by either party, both parties' rights to *rescind* lapse at the time of that *service* under paragraph (d)(v).
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 - (ii) subject to paragraph (f)(i), clause 19 applies.

SCHEDULE

Lender: _____ [specify]
Amount of Loan: _____ [specify]

Last date for receipt of approval 10/15/20 (delete whichever does not apply)
_____ business days after the contract date